



City of NORFOLK

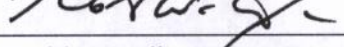
C: Dir., Department of City Planning

To the Honorable Council
City of Norfolk, Virginia

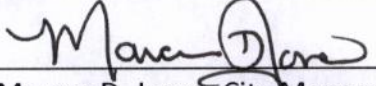
September 15, 2015

From: George M. Homewood, AICP, CFM, Planning Director

Subject: To amend a previously granted special exception for an Entertainment Establishment with alcoholic beverages and special exception for a Microbrewery at 1309 Raleigh Avenue - Smartmouth

Reviewed: 
Ronald H. Williams, Jr., Deputy City Manager

Ward/Superward: 2/6

Approved: 
Marcus D. Jones, City Manager

Item Number: R-3

- I. **Staff Recommendation:** Approval.
- II. **Commission Action:** By a vote of **6 to 0**, the Planning Commission recommends **Approval** for both requests.
- III. **Requests:** For the following requests:
 - a. To amend a previously granted special exception for an Entertainment Establishment with alcoholic beverages
 - b. Special exception for a Microbrewery
- IV. **Applicant:** Smartmouth Brewing Co. by Christine Neikirk
- V. **Description:**
 - Granting this request would allow the existing microbrewery, Smartmouth Brewing Co., to make the following modifications:
 - Continue to operate as a 24-hour brewery with a microbrewery special exception
 - Add earlier and later hours of outdoor entertainment
 - Add earlier hours for off-premises sales
 - Add new indoor capacity
 - Add new managers
 - The site is located on the south side of Raleigh Avenue and to the west of Orapax Avenue within the Chelsea Business District.

Staff point of contact: Matthew Simons at 664-4750, matthew.simons@norfolk.gov

Attachments:

- Staff Report to CPC dated August 27, 2015 with attachments
- Proponents and Opponents
- Ordinances



City of NORFOLK

Planning Commission Public Hearing: August 27, 2015

Executive Secretary: George M. Homewood, AICP, CFM

Planner: Matthew Simons, CFM *M. S.*

Staff Report	Item No. 15	
Address	1309 Raleigh Avenue	
Applicant	Smartmouth Brewing Co.	
Requests	Special Exceptions	<ul style="list-style-type: none">• Entertainment Establishment with alcoholic beverages• Microbrewery
Property Owner	Raleigh Commons, LLC	
Site Characteristics	Site/Building Area	Approx. ½ acre / 9,000 sq. ft.
	Zoning	I-1 (Limited Industrial)
	Neighborhoods	Chelsea/West Ghent
	Character District	Traditional
Surrounding Area	North	I-1: warehouses; CHKD shipping/receiving, Tycon Medical Supply
	East	I-1: offices; General Dynamics IT, Inc.
	South	I-1: residential; single-family homes and triplex
	West	I-5 (Deep Waterfront Industrial): port and railroad depot; Lambert's Point Coal Terminal



A. Summary of Request

- Granting this request would allow the existing microbrewery, Smartmouth Brewing Co., to make the following modifications:
 - Continue to operate as a 24-hour brewery with a microbrewery special exception
 - Add earlier and later hours of outdoor entertainment
 - Add earlier hours for off-premises sales
 - Add new indoor capacity
 - Add new managers
- The site is located on the south side of Raleigh Avenue and to the west of Orapax Avenue within the Chelsea Business District.

B. Plan Consistency

The proposed special exception requests are consistent with *plaNorfolk2030*, which designates this site as Commercial.

C. Zoning Analysis

i. General

- Entertainment establishments and microbreweries are permitted in the I-1 district with special exceptions.

	Current	Proposed
Hours of operation (brewery on-site)	7:00 a.m. until 2:00 a.m., seven days a week	24-hours a day, Seven days a week
Hours open to the public	7:00 a.m. until 2:00 a.m., seven days a week	Same
Hours for the sale of alcohol (on-premises sales)	9:00 a.m. until 2:00 a.m., seven days a week	Same
Hours for the sale of alcohol (off-premises sales)	11:00 a.m. until 12:00 midnight seven days a week	9:00 a.m. until 12:00 midnight seven days a week
Hours for entertainment (indoors)	11:00 a.m. until 2:00 a.m., seven days a week	Same
Hours for entertainment (outdoors)	4:00 p.m. until 8:00 p.m., Monday through Thursday 4:00 p.m. until 11:00 p.m., Friday 11:00 a.m. until 11:00 p.m., Saturday and Sunday	4:00 p.m. until 11:00 p.m., Thursday and Friday (other hours the same)
Seating capacity	74 seats indoor 76 seats outdoor 299 total capacity	74 seats indoor 40 seats outdoor 300 total capacity

Entertainment	<ul style="list-style-type: none"> • 5 member live band • Karaoke • Open Microphone • Poetry Reading • Comedian 	Same
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- Special Exception history:

City Council Approval	Applicant	Changes
September 2011	Full Boar Brewing by Porter Hardy	<u>Initial application</u> <ul style="list-style-type: none"> • ABC off-premise only
September 2012	Smartmouth Brewing by Christine Neikirk	<ul style="list-style-type: none"> • Increased hours for ABC off-premise • Added Entertainment and ABC on-premise • Off-Lot Parking
December 2012	Smartmouth Brewing by Christine Neikirk	<ul style="list-style-type: none"> • Adding managers • Adding 3 new floor plans
May 2013	Smartmouth Brewing by Christine Neikirk	<ul style="list-style-type: none"> • Adding managers • Adding 6 new floor plans • Increasing occupancy • Adding 32 ounce growlers
August 2013	Smartmouth Brewing by Christine Neikirk	<ul style="list-style-type: none"> • Adding managers • Eliminating 13 floor plans • Adding 1 new floor plan
April 2014	Smartmouth Brewing by Christine Neikirk	<ul style="list-style-type: none"> • Adding managers • Expanding seating • Expanding days available for outdoor entertainment • Expanding hours for on-premises alcohol sales
Pending	Smartmouth Brewing by Christine Neikirk	<ul style="list-style-type: none"> • 24-hour brewery microbrewery operation • Additional hours of outdoor entertainment • Additional hours for off-premises sales • Additional indoor capacity • Additional managers

ii. Parking

Including the off-lot parking that was previously approved by special exception, adequate parking is available.

iii. Flood Zone

The property is located in the X (Shaded) Flood Zone, which is a low-risk flood zone.

D. Transportation Impacts

No additional trips are forecast related to the proposed addition of new managers and floor plans to this existing entertainment establishment.

E. Impact on the Environment

- The proposed changes should not have an adverse impact on the surrounding uses.
- Over the past year there have been three calls for service and no arrests made.

F. Impact on Surrounding Area/Site

By requiring this use to conform to the conditions listed below, the proposed entertainment establishment and microbrewery should not have a negative effect on the surrounding neighborhood.

G. Payment of Taxes

The owner of the property is current on all real estate taxes.

H. Civic League

Notice was sent to the West Ghent Civic League and Chelsea Business Association on July 15.

I. Communication Outreach/Notification

- Legal notice was posted on the property on July 14.
- Letters were mailed to all property owners within 300 feet of the property on August 14.
- Legal notification was placed in *The Virginian-Pilot* on August 13 and August 20.

J. Recommendation

Staff recommends that the special exception request be **approved** subject to the conditions shown below:

Entertainment Establishment Conditions

- (a) The hours of operation for the facility shall be from 7:00 a.m. until 2:00 a.m. the following morning, seven days a week. No use of the facility outside of the hours of operation listed herein shall be permitted.
- (b) The hours for the sale of alcoholic beverages for on-premises consumption shall be from 9:00 a.m. until 2:00 a.m. the following morning, seven days a week.
- (c) The hours for entertainment provided indoors shall be from 11:00 a.m. until 2:00 a.m. the following morning, seven days a week.
- (d) The hours for entertainment provided outdoors or for any amplified sound provided outdoors shall be from 4:00 p.m. until 8:00 p.m., Monday through Wednesday, 4:00 p.m. until 11:00 p.m., on Thursday and Friday, and from 11:00 a.m. until 11:00 p.m., Saturday and Sunday.

- (e) The seating for the establishment shall not exceed 74 seats indoors, 40 seats outdoors, and the total occupant capacity, including employees, shall not exceed 300 people.
- (f) This special exception shall terminate in the event of a change in ownership of the facility and may be revoked in the event of a change in the operation or management of the facility as described in the Description of Operations set forth in "Exhibit A," attached hereto, provided that no termination in the event of a change in ownership of the facility shall be effective until 120 days after the change or until a new special exception is granted showing the new owner, whichever is earlier. Notwithstanding the above, no violation of this condition shall be deemed to have occurred if the only change in management is a result of one or more of the members of the management team identified in the Description of Operations ceasing to work at the establishment.
- (g) Entertainment shall be limited to live bands having no more than five (5) members, karaoke, poetry reading, comedians and open microphone. No other forms of entertainment are permitted.
- (h) There shall be no dancing and no dance floor provided.
- (i) The layout of the establishment shall adhere to the specifications of any of the floor plans attached hereto and marked as "Exhibit B".
- (j) No door to the facility which opens onto or faces a public right-of-way shall be propped open during any time that entertainment is being provided.
- (k) The establishment shall maintain a current, active business license at all times while in operation.
- (l) The establishment shall remain current on all food and beverages taxes and business personal property taxes which may become due while it is in operation.
- (m) No public telephone(s) shall be permitted on the exterior of the property. Any public phone(s) on the interior of the building shall be located in an area within full view of the establishment's staff and shall not be permitted within any restroom.
- (n) During all hours of operation, the facility operator shall be responsible for maintaining those portions of public rights-of-way improved by sidewalk and portions of any parking lot adjacent to the premises regulated by the Special Exception so as to keep such areas free of litter, refuse, solid waste, and any bodily discharge.

- (o) The establishment shall maintain a designated driver program which shall provide, at minimum, that designated drivers may be served non-alcoholic beverages at no charge. The establishment shall describe the program in writing and its availability shall be made known to patrons via either a printed card placed on each table and on the bar or a description printed on the menu.
- (p) The business authorized by this Special Exception shall be conducted in accordance with the Description of Operations set forth in "Exhibit A," attached hereto. The representations made in "Exhibit A" shall be binding upon all owners, operators and managers who operate and/or manage the premises covered by this Special Exception. Should any owner, operator or manager desire to operate the business in a manner different than as represented in "Exhibit A," a new Special Exception must be obtained prior to implementing such change. Where any limitation or representation contained in "Exhibit A" is inconsistent with any condition of this ordinance, the conditions of this ordinance shall govern.
- (q) The violation of any requirement, limitation, or restriction imposed by the Virginia ABC Commission or by any provision of Virginia law upon this establishment which are more stringent than the requirements of this Special Exception shall be effective and binding. Any violation of such requirement, limitation, or restriction imposed by the ABC Commission shall be deemed a violation of this Special Exception. This Special Exception may be revoked for any violation of a general or specific condition, including a condition incorporated by reference and including a condition arising from requirements, limitations, or restrictions imposed by the ABC Commission or by Virginia law.
- (r) Neither the establishment nor any portion of it shall be leased, let, or used by any third party to stage an event for profit. No outside promoter shall be permitted to use, operate, rent, or host any event on the premises.

Notwithstanding anything to the contrary, the requirements of this subsection, shall not apply to the following entities, who may lease or otherwise use the establishment for events that are permitted by and comply with this ordinance in all other respects:

- (1) Any federal, state or local governmental agency.
- (2) Any party that received a grant or other direct funding from a state or local government; and
- (3) Any party that is recognized as a charitable organization in good standing under 501 (c) (3) of the Internal Revenue Code of the United States Code at the time of the event

Collectively the parties identified in items 1, 2, 3 are defined as "authorized entities".

- (s) The establishment manager shall notify the Commissioner of Revenue no less than 72 hours prior to the commencement of any event at which a cover charge is to be collected or any event held by an Authorized Entity which leases, lets, or uses the establishment.
- (t) An ABC manager, employed and compensated by the applicant, shall be present at all events held on the premises. This manager shall supervise the event at all times. The ABC manager shall be present on the premises at least one hour prior to the beginning of the event and shall remain on the premises until the event is concluded and the establishment is secured and locked. If alcohol is not served or consumed, a responsible supervisor, employed and compensated by the applicant, shall perform this function.
- (u) In addition to the ABC manager or supervisor the applicant shall provide such additional paid staff as may be necessary to coordinate, supervise, and manage any event held on the premises.
- (v) No patrons or guests shall be charged a cover charge or fee for entry to the establishment.
- (w) A binder or folder containing documentation relating to the operation of the facility shall be kept on the premises at all times and shall be produced upon request made by any person. For purposes of this section, the documentation relating to the operation of the facility shall include copies of the following:
 - 1. This Special Exception;
 - 2. Any ABC license(s);
 - 3. Any occupancy permit(s);
 - 4. Certifications of all persons who work on the premises as a security guard;
 - 5. All fire code certifications, including alarm and sprinkler inspection records;
 - 6. Any health department permit(s);
 - 7. The emergency action plan required under the Fire Prevention Code;
 - 8. The names, addresses, and phone numbers of all persons who manage or supervise the facility at any time;
 - 9. The establishment's designated driver program.

10. The establishment's Security Plan

- (x) The business shall provide in-house security or retain the services of a licensed security firm to provide security services at a rate of one security guard per 50 guest occupants on the property whenever occupancy shall exceed 200 people or when otherwise required by at least 36 hours prior written notice of the Fire Marshall, Chief of Police, or any designee of either. After 8:00 p. m. each Friday and Saturday as well as during special events, a security supervisor certified either in the Responsible Hospitality Training course offered by the City of Norfolk or in accordance with the requirements of the Virginia Department of Criminal Justice Services shall be present on the property.
- (y) The written security plan submitted to the City as part of the application for this Special Exception and on file with the Department of Planning shall remain in full force and effect at all times while the facility is in operation.

Microbrewery Conditions

- (a) The hours during which the establishment is open to the public shall be limited to 7:00 a.m. until 2:00 a.m. the following morning, seven days a week.
- (b) The hours for the sale of alcoholic beverages for on-premises consumption shall be from 9:00 a.m. until 2:00 a.m. the following morning, seven days a week.
- (c) The hours for the sale of alcoholic beverages for off-premises consumption shall be from 9:00 a.m. until 12:00 midnight, seven days a week.
- (d) The seating for the establishment shall not exceed 74 seats indoors, 40 seats outdoors, and the total occupant capacity, including employees, shall not exceed 300 people.
- (e) There shall be no entertainment, no dancing, and no dance floor provided, except as may be authorized by a special exception permitting the operation of an entertainment establishment granted to this same operator as holds this special exception.
- (f) This special exception shall terminate in the event of a change in ownership of the facility and may be revoked in the event of a change in the operation of the facility as described in the Description of Operations set forth in "Exhibit A," attached hereto, provided that no termination in the event of a change in ownership of the facility shall be effective until 120 days after the change or until a new special exception is granted showing the new owner, whichever is earlier.
- (g) The business authorized by this Special Exception shall be conducted in accordance with the Description of Operations set forth in "Exhibit A," attached hereto. The

representations made in "Exhibit A" shall be binding upon all owners, operators and managers who operate and/or manage the premises covered by this Special Exception. Should any owner, operator or manager desire to operate the business in a manner different than as represented in "Exhibit A," a new Special Exception must be obtained prior to any such change. Where any limitation or representation contained in "Exhibit A" is inconsistent with any condition of this ordinance, the conditions of this ordinance shall govern.

- (h) No alcoholic beverages other than beer, ale, or other fermented malt beverages shall be sold.
- (i) No alcoholic beverage having more than 21% alcohol by volume shall be sold for off-premises consumption.
- (j) No beer shall be sold in any package containing fewer than four (4) bottles or cans with the exception of fillable or refillable containers of at least 32 oz. capacity, with the exception of those bottled craft beers which are exclusively produced in bottles greater than 12 ounces but less than 32 ounces in size.
- (k) The facility shall maintain a current, active business license at all times while in operation.
- (l) The establishment shall remain current on all food and beverages taxes and other local taxes which may become due while it is in operation.
- (m) During all hours of operation, the establishment operator shall be responsible for maintaining those portions of public rights-of-way improved by sidewalk and portions of any parking lot adjacent to the premises regulated by the Special Exception so as to keep such areas free of litter, refuse, solid waste, and any bodily discharge.
- (n) The violation of any requirement, limitation, or restriction imposed by the Virginia ABC Commission shall be deemed a violation of this Special Exception. This Special Exception may be revoked for any violation of a general or specific condition, including a condition incorporated by reference and including a condition arising from requirements, limitations, or restrictions imposed by the ABC Commission or by Virginia law.
- (o) A copy of this Special Exception ordinance and "Exhibit A" shall be available on site at all times for inspection, and a notice indicating that this Special Exception ordinance and all amendments are kept on the premises and are available for review by any member of the general public shall be posted in a visible location. The notice shall also contain information on where and how to report violations of conditions and shall include the address of the zoning administrator.

Attachments:

Location Map

Zoning Map

1000' radii map of similar ABC establishments

Applications

Survey

Notice to the West Ghent Civic League and Chelsea Business Association

Proponents and Opponents

Proponents


Chris Neikirk – Applicant
1309 Raleigh Avenue
Norfolk, VA 23507

Opponents

None

Form and Correctness Approved: 

Contents Approved: 

By 
Office of the City Attorney

By 
DEPT.

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE GRANTING A SPECIAL EXCEPTION AUTHORIZING THE OPERATION OF AN ENTERTAINMENT ESTABLISHMENT NAMED "SMARTMOUTH BREWING COMPANY" ON PROPERTY LOCATED AT 1309 RALEIGH AVENUE.

- - -

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That a Special Exception is hereby granted to Smartmouth Brewing Co., LLC authorizing the operation of an entertainment establishment named "Smartmouth Brewing Company" on property located at 1309 Raleigh Avenue. The property which is the subject of this Special Exception is more fully described as follows:

Property fronting 228 feet, more or less, along the southern line of Raleigh Avenue, beginning 93 feet, more or less, from the western line of Orapax Street and extending westwardly; premises numbered 1309 Raleigh Avenue.

Section 2:- That the Special Exception granted hereby shall be subject to the following conditions:

- (a) The hours during which the establishment is open to the public shall be limited to 7:00 a.m. until 2:00 a.m. the following morning, seven days per week.
- (b) The hours of operation for the sale of alcoholic beverages for on-premises consumption shall be limited to 9:00 a.m. until 2:00 a.m. the following morning, seven days per week.
- (c) The hours for entertainment provided indoors shall be limited to 11:00 a.m. until 2:00 a.m. the following morning, seven days per week.
- (d) The hours for entertainment provided outdoors or for any amplified sound provided outdoors shall be

limited to 4:00 p.m. until 8:00 p.m. Monday through Wednesday, from 4:00 p.m. until 11:00 p.m. on Thursday and Friday, and from 11:00 a.m. until 11:00 p.m. on Saturday and Sunday.

- (e) The seating for the establishment shall not exceed 74 seats indoors, 40 seats outdoors, and the total occupant capacity, including employees, shall not exceed 300 people.
- (f) No smoking shall be permitted anywhere in the outdoor entertainment area.
- (g) This special exception shall terminate in the event of a change in ownership of the establishment and may be revoked in the event of a change in the operation or management of the establishment as described in the Description of Operations set forth in "Exhibit A," attached hereto, provided that no termination in the event of a change in ownership of the establishment shall be effective until 120 days after the change or until a new special exception is granted showing the new owner, whichever is earlier. Notwithstanding the above, no violation of this condition shall be deemed to have occurred if the only change in management is a result of one or more of the members of the management team identified in the Description of Operations ceasing to work at the establishment.
- (h) Entertainment shall be limited to live bands having no more than five (5) members, karaoke, poetry reading, comedians and open microphone. No other forms of entertainment are permitted.
- (i) There shall be no dancing and no dance floor provided.
- (j) The layout of the establishment shall adhere to the specifications of any of the floor plans attached hereto at "Exhibit B."
- (k) No door to the establishment which opens onto or faces a public right-of-way shall be propped open during any time that entertainment is being provided.

- (l) The establishment shall maintain a current, active business license at all times while in operation.
- (m) The establishment shall remain current on all food and beverage taxes and business personal property taxes which may become due while it is in operation.
- (n) No public telephone(s) shall be permitted on the exterior of the property. Any public phone(s) on the interior of the building shall be located in an area within full view of the establishment's staff and shall not be permitted within any restroom.
- (o) During all hours of operation, the establishment operator shall be responsible for maintaining those portions of public rights-of-way improved by sidewalk and portions of any parking lot adjacent to the premises regulated by the Special Exception so as to keep such areas free of litter, refuse, solid waste, and any bodily discharge.
- (p) The establishment shall maintain a designated driver program which shall provide, at minimum, that designated drivers may be served non-alcoholic beverages at no charge. The establishment shall describe the program in writing and its availability shall be made known to patrons via either a printed card placed on each table and on the bar.
- (q) The business authorized by this Special Exception shall be conducted in accordance with the Description of Operations set forth in "Exhibit A," attached hereto. The representations made in "Exhibit A" shall be binding upon all owners, operators and managers who operate and/or manage the premises covered by this Special Exception. Should any owner, operator or manager desire to operate the business in a manner different than as represented in "Exhibit A," a new Special Exception must be obtained prior to implementing such change. Where any limitation or representation contained in "Exhibit A" is inconsistent with any condition of this ordinance, the conditions of this ordinance shall govern.

- (r) The violation of any requirement, limitation, or restriction imposed by the Virginia ABC Commission shall be deemed a violation of this Special Exception. This Special Exception may be revoked for any violation of a general or specific condition, including a condition incorporated by reference and including a condition arising from requirements, limitations, or restrictions imposed by the ABC Commission or by Virginia law.
- (s) Neither the establishment nor any portion of it shall be leased, let, or used by any third party to stage an event for profit. No outside promoter shall be permitted to use, operate, rent, or host any event on the premises.

Notwithstanding anything to the contrary, the requirements of this subsection shall not apply to the following entities, who may lease or otherwise use the establishment for events that are permitted by and comply with this ordinance in all other respects:

- (1) Any federal, state, or local government or governmental agency;
- (2) Any party that receives a grant or other direct funding from a state or local government; and
- (3) Any party that is recognized as a charitable organization in good standing under § 501(c)(3) of the Internal Revenue Code of the United States Code at the time of the event.

Collectively, the parties identified in items 1, 2 and 3 above are defined as "Authorized Entities".

- (t) The establishment manager shall notify the Commissioner of the Revenue no less than 72 hours prior to the commencement of any event at which a cover charge is to be collected or any event held by an Authorized Entity which leases, lets, or uses the establishment.

- (u) An ABC manager, employed and compensated by the applicant, shall be present at all events held on the premises. This manager shall supervise the event at all times. The ABC manager shall be present on the premises at least one hour prior to the beginning of the event and shall remain on the premises until the event is concluded and the establishment is secured and locked. If alcohol is not served or consumed, a responsible supervisor, employed and compensated by the applicant, shall perform this function.
- (v) In addition to the ABC manager or supervisor the applicant shall provide such additional paid staff as may be necessary to coordinate, supervise, and manage any event held on the premises.
- (w) No patrons or guests shall be charged a cover charge or fee for entry to the establishment.
- (x) A binder or folder containing documentation relating to the operation of the facility shall be kept on the premises at all times and shall be produced upon request made by any person. For purposes of this section, the documentation relating to the operation of the facility shall include copies of the following:
 - (1) This Special Exception;
 - (2) Any ABC license(s);
 - (3) Any occupancy permit(s);
 - (4) Certifications of all persons who work on the premises as a security guard;
 - (5) All fire code certifications, including alarm and sprinkler inspection records;
 - (6) Any health department permits;
 - (7) The emergency action plan required under the Fire Prevention Code;

- (8) The names, addresses, and phone numbers of all persons who manage or supervise the facility at any time;
- (9) The facility's designated driver program;
- (10) The facility's Security Plan.
- (y) The business shall provide in-house security or retain the services of a licensed security firm to provide security services at a rate of one security guard per 50 guest occupants on the property whenever occupancy shall exceed 200 people or when otherwise required by at least 36 hours prior written notice of the Fire Marshall, Chief of Police, or any designee of either. After 8:00 p.m. each Friday and Saturday as well as during special events, a security supervisor certified in accordance with the requirements of the Virginia Department of Criminal Justice Services shall be present on the property.
- (z) The written security plan submitted to the City as part of the application for this Special Exception and on file with the Department of Planning shall remain in full force and effect at all times while the facility is in operation.

Section 3:- That the City Council hereby determines that the Special Exception granted herein complies with each of the requirements of § 25-7 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended), namely that:

- (a) The proposed use and development will be in harmony with the objectives and policies of the adopted general plan and with the general and specific purposes for which this ordinance was enacted and for which the regulations of the district in question were established;
- (b) The proposed use and development will not substantially diminish or impair the value of the property within the neighborhood in which it is located;
- (c) The proposed use and development will not have an adverse effect upon the character of the area or

the public health, safety and general welfare. Conditions may be applied to the proposed use and development, as specified in section 25-8 below, to mitigate potential adverse impacts;

- (d) The proposed use and development will be constructed, arranged and operated so as not to interfere with the use and development of neighboring property in accordance with the applicable district regulations;
- (e) The proposed use and development will be served adequately by essential public facilities and services such as streets, public utilities, drainage structures, police and fire protection, refuse disposal, parks, libraries, and schools;
- (f) The proposed use and development will not cause undue traffic congestion nor draw significant amounts of traffic through residential streets;
- (g) The proposed use and development will not result in the destruction, loss or damage of natural, scenic or historic features of significant importance;
- (h) The proposed use and development will not cause substantial air, water, soil or noise pollution or other types of pollution which cannot be mitigated;
- (i) The proposed use and development will not cause a negative cumulative effect, when its effect is considered in conjunction with the cumulative effect of various special exception uses of all types on the immediate neighborhood and the effect of the proposed type of special exception use on the city as a whole;
- (j) The proposed use and development complies with all additional standards imposed on it by the particular provisions of the ordinance authorizing such use; and
- (k) No application for a special exception shall be recommended or granted until any and all delinquent real estate taxes owed to the City of Norfolk on the subject property have been paid.

Section 4:- That the Special Exception granted hereby amends the previously granted special exception permitting an entertainment establishment on this property, adopted on April 8, 2014 (Ordinance NO. 45,507). All provisions and conditions previously approved are entirely superseded by the terms of this Special Exception.

Section 5:- That this ordinance shall be in effect from the date of its adoption.

ATTACHMENTS:

Exhibit A (4 pages)

Exhibit B (20 pages)



EXHIBIT "A"
Description of Operations
Entertainment Establishment
(Please Print)

Date 7/27/15

Trade name of business Smartmouth Brewing Co.

Address of business 1309 Raleigh Ave. #300 Norfolk 23507

Name(s) of business owner(s)* see attached

Name(s) of property owner(s)* Raleigh Commons LLC, James Bayler

Name(s) of business manager(s)/operator(s) see attached

Daytime telephone number (757) 624-3939 or cell 757 478 3836

*If business or property owner is a partnership, all partners must be listed.
*If business or property owner is an LLC or Corporation, all principals must be listed.

1. Proposed Hours of Operation:

Facility	<i>on-premises</i> Alcoholic Beverage Sales	<i>indoor</i> Entertainment
Weekday From <u>7am</u> To <u>2am</u>	Weekday From <u>9am</u> To <u>2am</u>	
Friday From <u>7am</u> To <u>2am</u>	Friday From <u>9am</u> To <u>2am</u>	
Saturday From <u>7am</u> To <u>2am</u>	Saturday From <u>9am</u> To <u>2am</u>	
Sunday From <u>7am</u> To <u>2am</u>	Sunday From <u>9am</u> To <u>2am</u>	

2. Type of ABC license applied for (check all applicable boxes):
☒ On-Premises ☐ Off-Premises (second application required)

3. Type of alcoholic beverage applied for:
☒ Beer ☐ Wine ☐ Mixed Beverage

only

DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT
810 Union Street, Room 508
Norfolk, Virginia 23510
Telephone (757) 664-4752 Fax (757) 441-1569
(Revised July 2013)

Exhibit A – Page 2
Entertainment Establishment

4. Will video games, pool tables, game boards or other types of games be provided?
Yes (If more than 4, additional application required) ☒ No

4a. If yes, please describe type and number of each game to be provided:

5. Will patrons ever be charged to enter the establishment?
Yes ☒ No

5a. If yes, why:

5b. Which days of the week will there be a cover charge (circle all applicable days):

Monday Tuesday Wednesday Thursday Friday
Saturday Sunday

6. Will the facility or a portion of the facility be available for private parties?
☒ Yes No

6a. If yes, explain:

non profits, govt agencies, private indiv or
corp events-non publicized

7. Will a third party (promoter) be permitted to lease, let or use the establishment?
Yes ☒ No

7a. If yes, explain:

8. Will there ever be a minimum age limit?
Yes ☒ No

DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT

810 Union Street, Room 508

Norfolk, Virginia 23510

Telephone (757) 664-4752 Fax (757) 441-1569

(Revised July 2013)

Exhibit A – Page 3
Entertainment Establishment

9. Additional comments/description/operational characteristics or prior experience:

Note: If smoking is permitted, then floor plans must be submitted showing all necessary building requirements for such facility



Signature of Applicant

Smartmouth Brewing Co. Owners:

Porter and Kim Hardy
Christopher Neikirk
Tim and Kelly Faulkner
Thomas Minton
Jeffrey Kramer
Kathryn Hoover
Chris Burgess
Evans McMillan
John Lynch
Colin Barton
Russ Danstrom
Eliza Berkeley
Clark Avery

Smartmouth Brewing Co. Managers:

All above plus:
Christine Neikirk
Greg Papp
Jimmy Loughran
Andrew Caldwell
Jared Smith
Jeremy Hartson
Paul Spencer
Clint Smith
Kristin Turner
Paul Hutchings
Heidi Anderson
Jennifer Gordon
Lucas Johnson
Julia Martin
Katie Cowling
Courtney Geromin
David Gustin
Daniel Hart
Greg Hartman
Sarah Johnson
Courtney Whitaker
Megan Glover
Elizabeth Danse
Angie Anelli

Exhibit B

1

Exhibit A - Floor Plan(s) Worksheet Entertainment Establishment

- o Complete this worksheet based for each floor plan submitted with application.
- o Floor plan(s) must be prepared by a registered design professional and include:
 - o Tables/seats
 - o Restroom facilities
 - o Bar
 - o Ingress and egress
 - o Standing room
 - o Disc Jockey/Band/Entertainment area)
 - o Outdoor seating
 - o Total maximum capacity (including employees)

1. Total capacity

- a. Indoor
- | | |
|---|------------|
| Number of seats (not including bar seats) | <u>34</u> |
| Number of bar seats | |
| Standing room | <u>105</u> |
| Band | <u>5</u> |
- b. Outdoor
- | | |
|-----------------|-----------|
| Number of seats | <u>40</u> |
|-----------------|-----------|
- c. Number of employees 6

Total Occupancy
(Indoor/Outdoor seats, standing room and employees) = 150

2. Entertainment

List ANY type of entertainment proposed other than a 3 member live band, karaoke, comedian, or poetry reading.

5 member live band, Karaoke, comedy, trivia
or poetry

3. Will a dance floor be provided?

☐ Yes ☒ No

- 3a. If yes,
- | | |
|---------------------------------|-------|
| Square footage of establishment | _____ |
| Square footage of dance floor | _____ |

- o If a disc jockey is proposed, a dance floor must be provided.
- o If the dance floor is more than 10% of the square footage of the establishment, a Dance Hall permit is required.

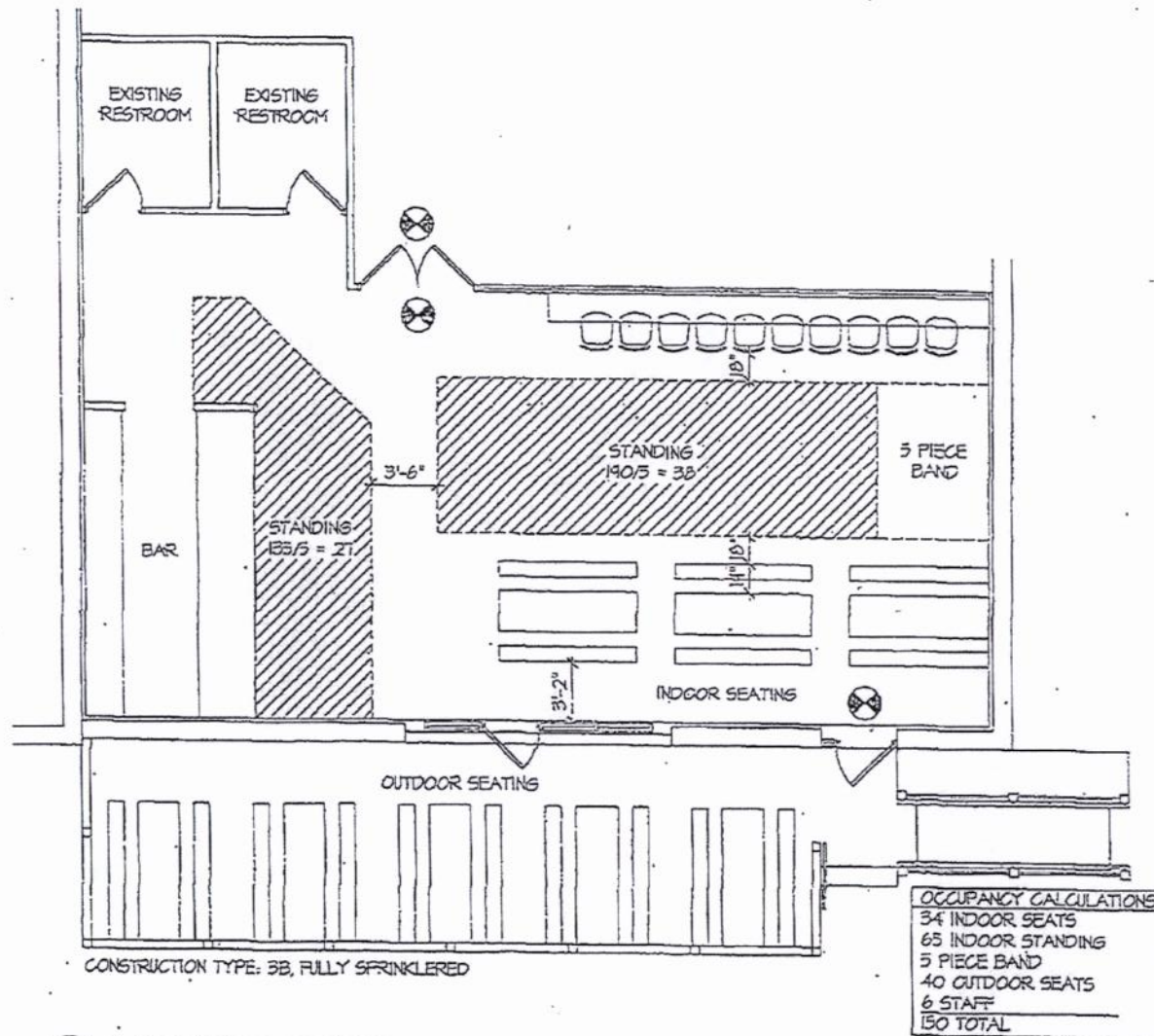
DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT

810 Union Street, Room 508

Norfolk, Virginia 23510

Telephone (757) 664-4752 Fax (757) 441-1569

(Revised July 2013)



SMARTMOUTH BREWING COMPANY; 1309 RALEIGH AVENUE; NORFOLK, VA 23507
 1/8" = 1'-0"

Exhibit A – Floor Plan(s) Worksheet
Entertainment Establishment

- Complete this worksheet based for each floor plan submitted with application.
- Floor plan(s) must be prepared by a registered design professional and include:
 - Tables/seats
 - Restroom facilities
 - Bar
 - Ingress and egress
 - Standing room
 - Disc Jockey/Band/Entertainment area)
 - Outdoor seating
 - Total maximum capacity (including employees)

1. Total capacity

a. Indoor

Number of seats (not including bar seats)

42

Number of bar seats

Standing room

105

b. Outdoor

Number of seats

32

Band

5

c. Number of employees

6

Total Occupancy

(Indoor/Outdoor seats, standing room and employees) = 150

2. Entertainment

List ANY type of entertainment proposed other than a 3 member live band, karaoke, comedian, or poetry reading.

5 member live band, Karaoke, Comedy, trivia
or poetry

Outdoor entertainment
limited till
4pm - 8pm Mon. - Thurs.
4pm - 11pm Friday
11am - 11pm Sat. - Sun.
3/5/14

3. Will a dance floor be provided?

☐ Yes ☒ No

3a. If yes,

Square footage of establishment _____

Square footage of dance floor _____

- If a disc jockey is proposed, a dance floor must be provided.
- If the dance floor is more than 10% of the square footage of the establishment, a Dance Hall permit is required.

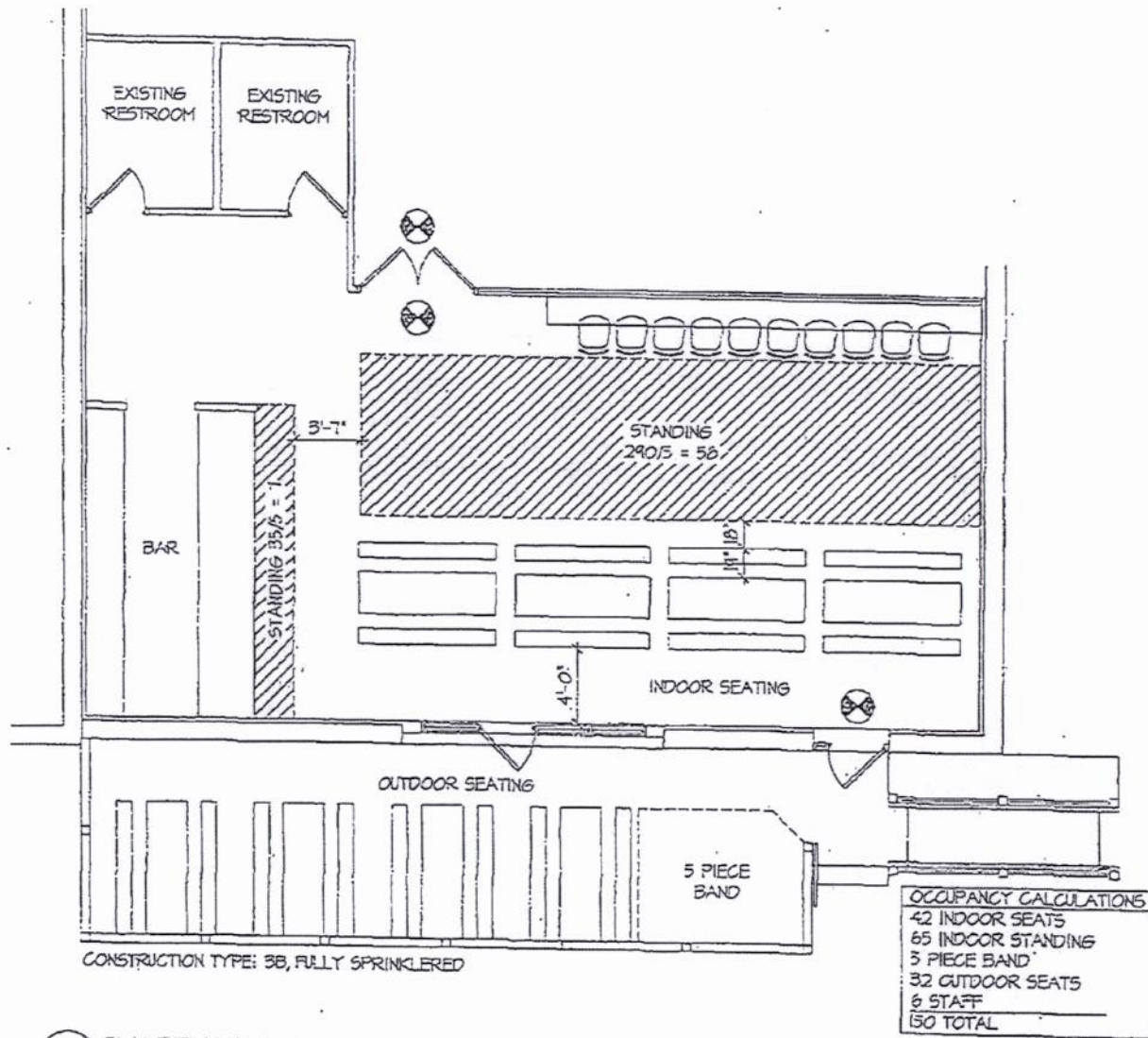
DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT

810 Union Street, Room 508

Norfolk, Virginia 23510

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(Revised July 2013)



2 SMARTMOUTH BREWING COMPANY; 1309 RALEIGH AVENUE, NORFOLK, VA 23507
 1/8" = 1'-0"

3

**Exhibit A – Floor Plan(s) Worksheet
Entertainment Establishment**

- Complete this worksheet based for each floor plan submitted with application.
- Floor plan(s) must be prepared by a registered design professional and include:
 - Tables/seats
 - Restroom facilities
 - Bar
 - Ingress and egress
 - Standing room
 - Disc Jockey/Band/Entertainment area)
 - Outdoor seating
 - Total maximum capacity (including employees)

1. Total capacity

- a. Indoor
- | | |
|---|-----------|
| Number of seats (not including bar seats) | <u>74</u> |
| Number of bar seats | <u>23</u> |
| Standing room | |
- b. Outdoor
- | | |
|-------------------------------------|-----------|
| Number of seats Standing | <u>42</u> |
| Band | <u>5</u> |
- c. Number of employees 6

Total Occupancy
(Indoor/Outdoor seats, standing room and employees) = 150

2. Entertainment

List ANY type of entertainment proposed other than a 3 member live band, karaoke, comedian, or poetry reading.

5 member live band, Karaoke, comedy
trivia, poetry

3. Will a dance floor be provided?

☐ Yes ☒ No

- 3a. If yes,
- Square footage of establishment _____
- Square footage of dance floor _____

- If a disc jockey is proposed, a dance floor must be provided.
- If the dance floor is more than 10% of the square footage of the establishment, a Dance Hall permit is required.

DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT

810 Union Street, Room 508

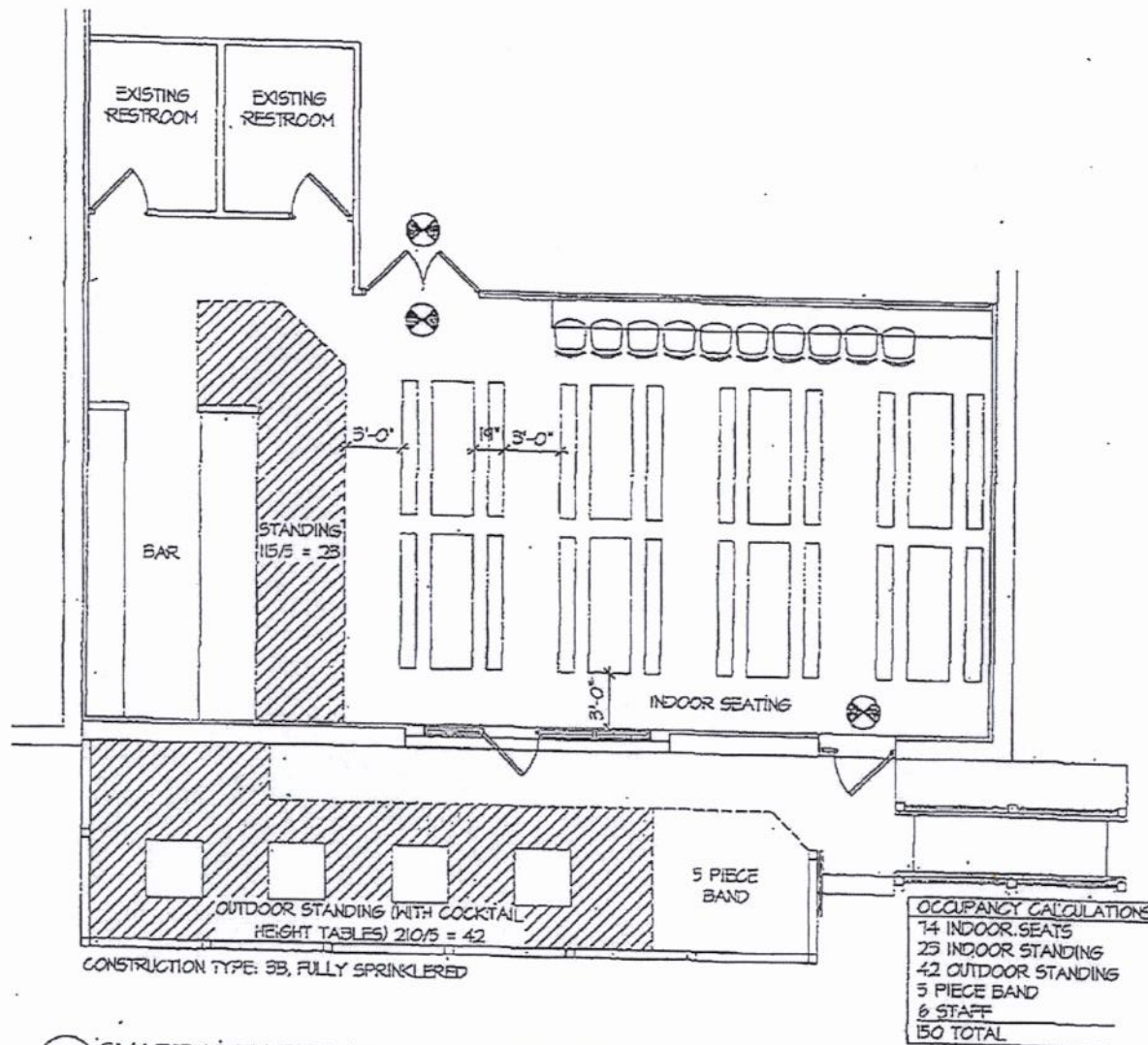
Norfolk, Virginia 23510

Telephone (757) 664-4752 Fax (757) 441-1569

(Revised July 2013)

Outdoor
entertainment
limited to
4pm - 8pm; Mon - Thurs.
4pm - 11pm; Friday
11am - 11pm; Sat. - Sun.

M. S.
3/5/14



3 SMARTMOUTH BREWING COMPANY; 1309 RALEIGH AVENUE; NORFOLK, VA 23507.
 1/8" = 1'-0"

4

Exhibit A - Floor Plan(s) Worksheet
Entertainment Establishment

- Complete this worksheet based for each floor plan submitted with application.
- Floor plan(s) must be prepared by a registered design professional and include:
 - Tables/seats
 - Restroom facilities
 - Bar
 - Ingress and egress
 - Standing room
 - Disc Jockey/Band/Entertainment area)
 - Outdoor seating
 - Total maximum capacity (including employees)

1. Total capacity

- | | |
|---|-----------|
| a. Indoor | |
| Number of seats (not including bar seats) | <u>42</u> |
| Number of bar seats | <u>53</u> |
| Standing room | <u>5</u> |
| Band | <u>5</u> |
| b. Outdoor | |
| Number of seats | <u>32</u> |
| standing | <u>12</u> |
| c. Number of employees | <u>6</u> |

Total Occupancy
(Indoor/Outdoor seats, standing room and employees) = 150

2. Entertainment

List ANY type of entertainment proposed other than a 3 member live band, karaoke, comedian, or poetry reading.

5 member live band, Karaoke, Comedy
bania or poetry

3. Will a dance floor be provided?

☐ Yes ☒ No

- 3a. If yes,
Square footage of establishment _____
Square footage of dance floor _____

- If a disc jockey is proposed, a dance floor must be provided.
- If the dance floor is more than 10% of the square footage of the establishment, a Dance Hall permit is required.

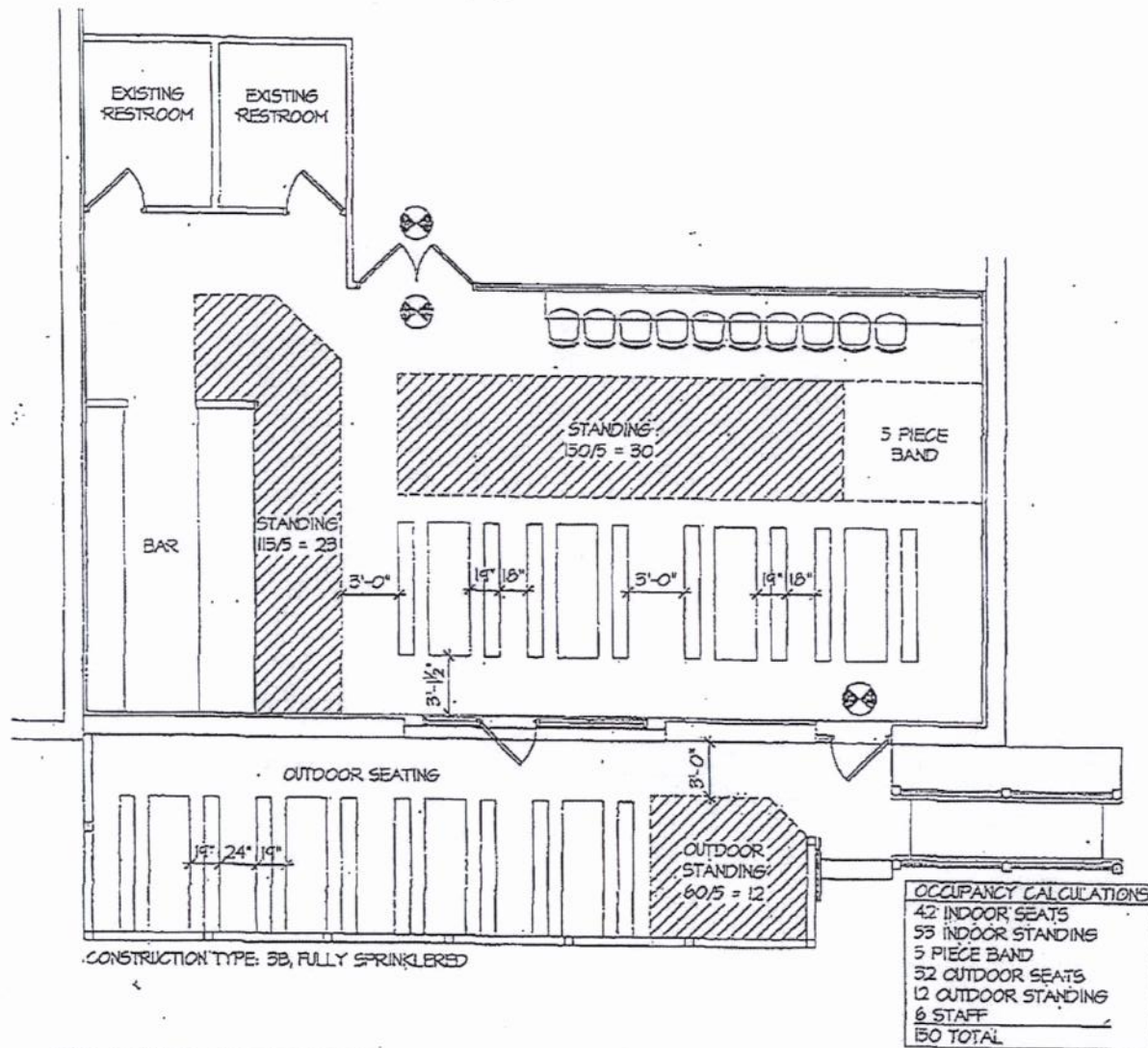
DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT

810 Union Street, Room 508

Norfolk, Virginia 23510

Telephone (757) 664-4752 Fax (757) 441-1669

(Revised July 2013)



4 SMARTMOUTH BREWING COMPANY; 1309 RALEIGH AVENUE, NORFOLK, VA 23507
 1/8" = 1'-0"

5

Exhibit A -- Floor Plan(s) Worksheet
Entertainment Establishment

- Complete this worksheet based for each floor plan submitted with application.
- Floor plan(s) must be prepared by a registered design professional and include:
 - Tables/seats
 - Restroom facilities
 - Bar
 - Ingress and egress
 - Standing room
 - Disc Jockey/Band/Entertainment area)
 - Outdoor seating
 - Total maximum capacity (including employees)

1. Total capacity

a. Indoor

Number of seats (not including bar seats) 42

Number of bar seats 104

Standing room 1

Musician 1

b. Outdoor

Number of seats 32

Band 5

c. Number of employees 6

Total Occupancy

(Indoor/Outdoor seats, standing room and employees) = 150

2. Entertainment

List ANY type of entertainment proposed other than a 3 member live band, karaoke, comedian, or poetry reading.

Single Musician, 5 member live band, Karaoke
comedy trivia + poetry

3. Will a dance floor be provided?

☐ Yes ☐ No

3a. If yes,

Square footage of establishment _____

Square footage of dance floor _____

- If a disc jockey is proposed, a dance floor must be provided.
- If the dance floor is more than 10% of the square footage of the establishment, a Dance Hall permit is required.

DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT

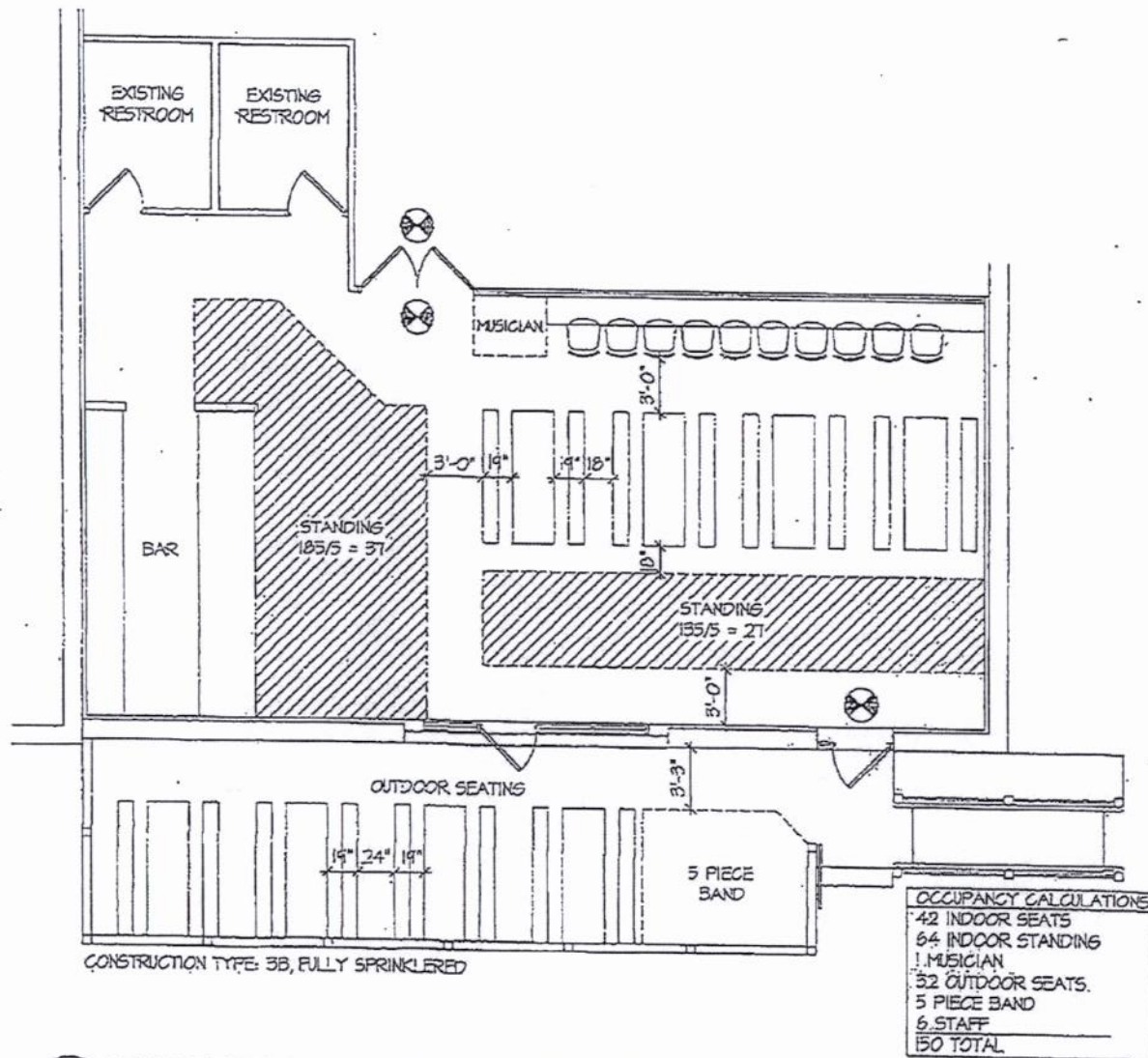
810 Union Street, Room 508

Norfolk, Virginia 23510

Telephone (757) 664-4752 Fax (757) 441-1569

(Revised July 2013)

Outdoor
Entertainment
Unlimited Hall
4pm - 8pm; Mon - Thurs.
4pm - 11pm; Friday
11am - 11pm; Sat. - Sun.
M.S.
3/5/14



5 SMARTMOUTH BREWING COMPANY; 1309 RALEIGH AVENUE; NORFOLK, VA 23507
1/8" = 1'-0"

6

Exhibit A - Floor Plan(s) Worksheet
Entertainment Establishment

- Complete this worksheet based for each floor plan submitted with application.
- Floor plan(s) must be prepared by a registered design professional and include:
 - Tables/seats
 - Restroom facilities
 - Bar
 - Ingress and egress
 - Standing room
 - Disc Jockey/Band/Entertainment area
 - Outdoor seating
 - Total maximum capacity (including employees)

1. Total capacity

a. Indoor	
Number of seats (not including bar seats)	<u>58</u>
Number of bar seats	
Standing room	<u>41</u>
Band	<u>5</u>
b. Outdoor	
Number of seats	<u>16</u>
Standing	<u>24</u>
c. Number of employees	<u>60</u>

Total Occupancy
(Indoor/Outdoor seats, standing room and employees) = 150

2. Entertainment

List ANY type of entertainment proposed other than a 3 member live band, karaoke, comedian, or poetry reading.

5 member live band, karaoke, comedy, trivia
or poetry

3. Will a dance floor be provided?

☐ Yes ☒ No

3a. If yes,
Square footage of establishment _____
Square footage of dance floor _____

- If a disc jockey is proposed, a dance floor must be provided.
- If the dance floor is more than 10% of the square footage of the establishment, a Dance Hall permit is required.

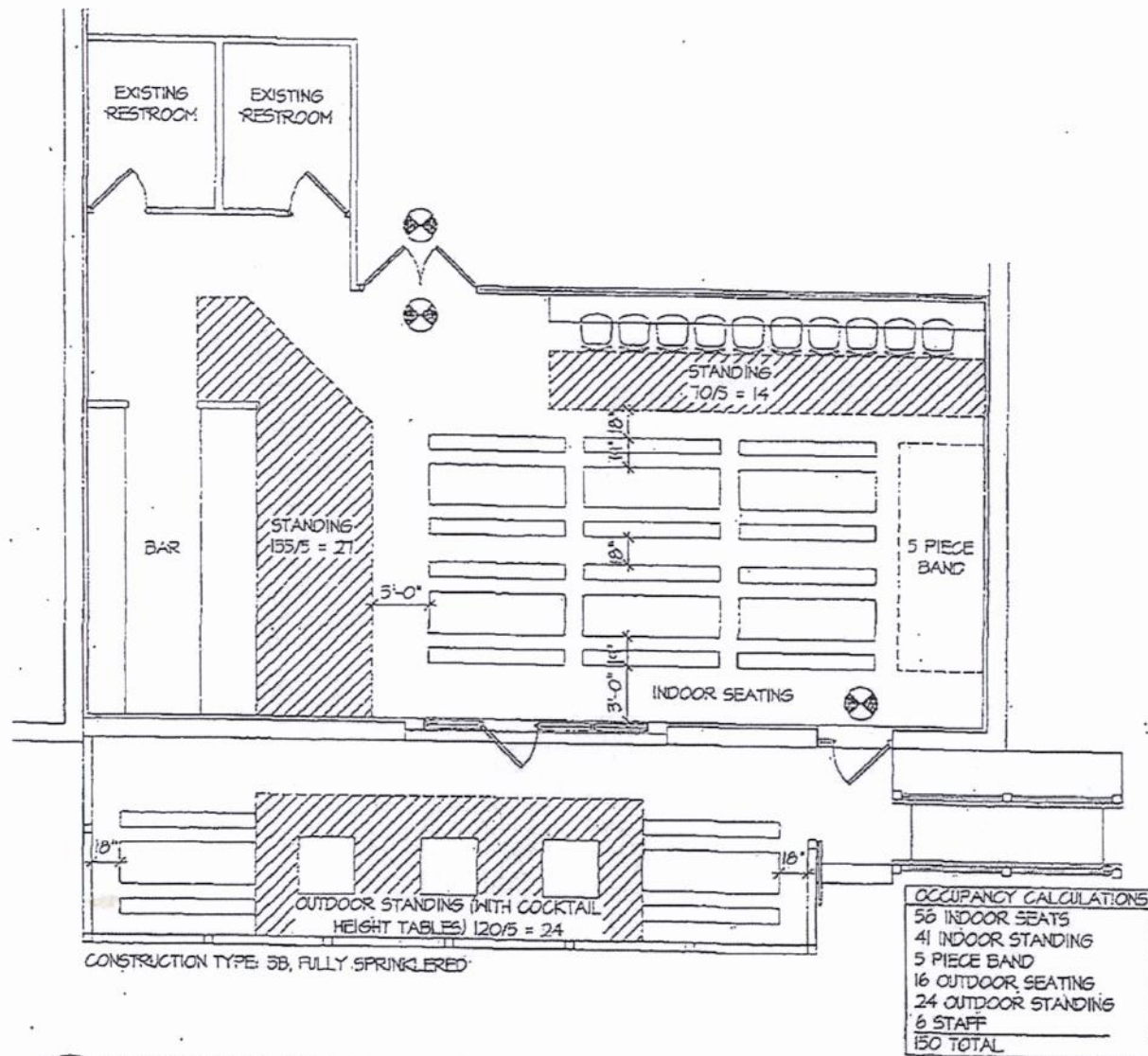
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Norfolk, Virginia 23510

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(Revised July 2013)



6 SMARTMOUTH BREWING COMPANY; 1309 RALEIGH AVENUE; NORFOLK, VA 23507
 1/8" = 1'-0"

**Exhibit A – Floor Plan(s) Worksheet
Entertainment Establishment**

- Complete this worksheet based for each floor plan submitted with application.
- Floor plan(s) must be prepared by a registered design professional and include:
 - Tables/seats
 - Restroom facilities
 - Bar
 - Ingress and egress
 - Standing room
 - Disc Jockey/Band/Entertainment area)
 - Outdoor seating
 - Total maximum capacity (including employees)

1. Total capacity

a. Indoor

Number of seats (not including bar seats)	10
Number of bar seats	.
Standing room	133
Band	1

b. Outdoor

Number of seats	_____
-----------------	-------

c. Number of employees

6

Total Occupancy

(Indoor/Outdoor seats, standing room and employees) = 150

2. Entertainment

List ANY type of entertainment proposed other than a 3 member live band, karaoke, comedian, or poetry reading.

trivia, yoga

3. Will a dance floor be provided?

☐ Yes ☒ No

3a. If yes,

Square footage of establishment _____

Square footage of dance floor _____

- If a disc jockey is proposed, a dance floor must be provided.
- If the dance floor is more than 10% of the square footage of the establishment, a Dance Hall permit is required.

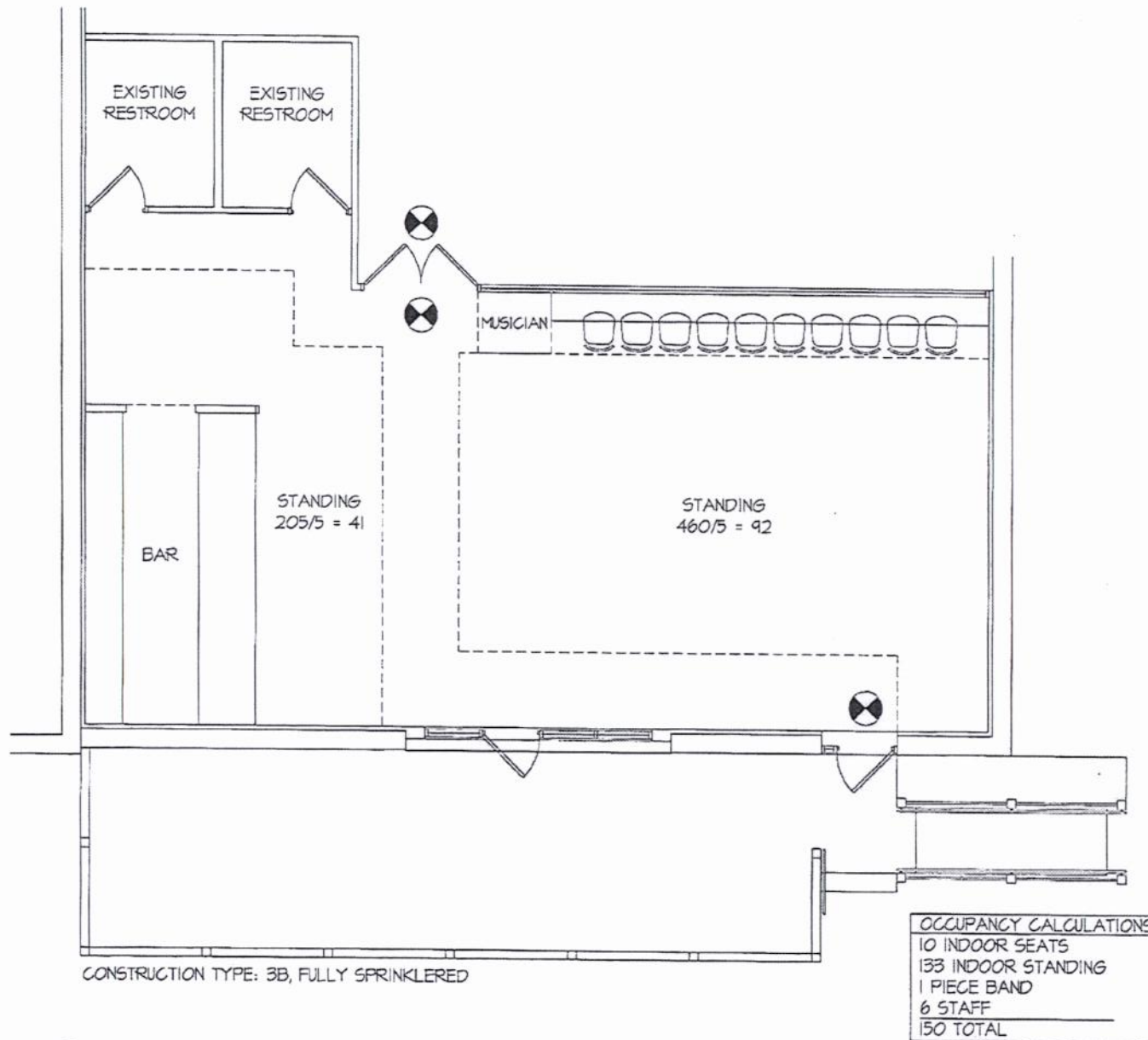
DEPARTMENT OF CITY PLANNING

810 Union Street, Room 508

Norfolk, Virginia 23510

Telephone (757) 664-4752 Fax (757) 441-1569

(Revised January, 2015)



7 SMARTMOUTH BREWING COMPANY; 1309 RALEIGH AVENUE; NORFOLK, VA 23507
 1/8" = 1'-0"

Exhibit A
Entertainment Establishment
Floor Plan(s)

1. Seating (Approved floor plan must be attached)

a. Indoor

Number of seats _____
(not including bar seats)

Number of bar seats _____
Number of tables _____

b. Outdoor

Number of seats 140

Number of tables 5

standing 5 musicians

c. Number of employees 5

Total Occupancy (Indoor and Outdoor and employees) 150

2. Describe type tables and booth (i.e., rounds of 4, booth seats 6, etc.)

0 2-Tops 0 4-Tops 0 6 Tops

Other: _____

3. Will indoor or outdoor entertainment be provided?

(Entertainment consists of anything more than one, unamplified musician)

Yes

No

4a. If yes, describe in detail:

5 piece band, amplified, trivia
poetry, karaoke, comedy

4. Will a dance floor be provided?

Yes

No

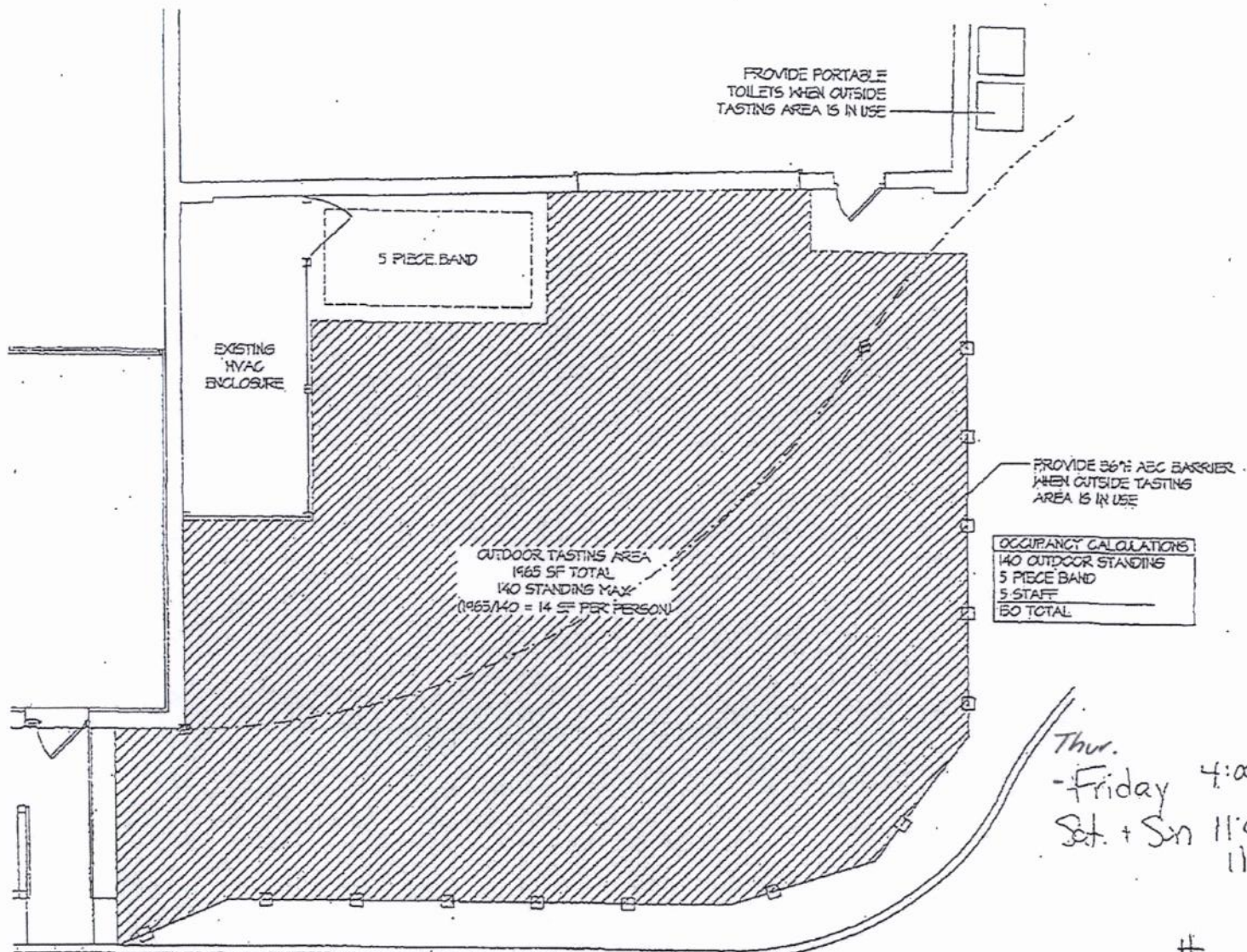
4a. If yes, square footage of establishment _____
square footage of dance floor _____

DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT

810 Union Street, Room 508

Norfolk, Virginia 23510

Telephone (757) 664-4752 Fax (757) 441-1569



SMARTMOUTH BREWING COMPANY; 1509 RALEIGH AVENUE, NORFOLK, VA 23507
OUTDOOR TASTING AREA USED 5 TIMES MONTHLY IN CONJUNCTION WITH LAYOUTS 1-49
1/31/21

0

Exhibit A
Entertainment Establishment
Floor Plan(s)

1. Seating (Approved floor plan must be attached)

a. Indoor

Number of seats _____
(not including bar seats)

Number of bar seats _____
Number of tables _____

b. Outdoor

Number of seats 36

Number of tables 6

104 standing

5 musicians

c. Number of employees 5

Total Occupancy (Indoor and Outdoor and employees) 150

2. Describe type tables and booth (i.e., rounds of 4, booth seats 6, etc.)

_____ 2-Tops _____ 4-Tops 6 6-Tops

Other: _____

3. Will indoor or outdoor entertainment be provided?

(Entertainment consists of anything more than one, unamplified musician)

☒ Yes

☐ No

4a. If yes, describe in detail:

5 piece band, amplified, trivia

poetry, karaoke, comedy

4. Will a dance floor be provided?

☐ Yes

☒ No

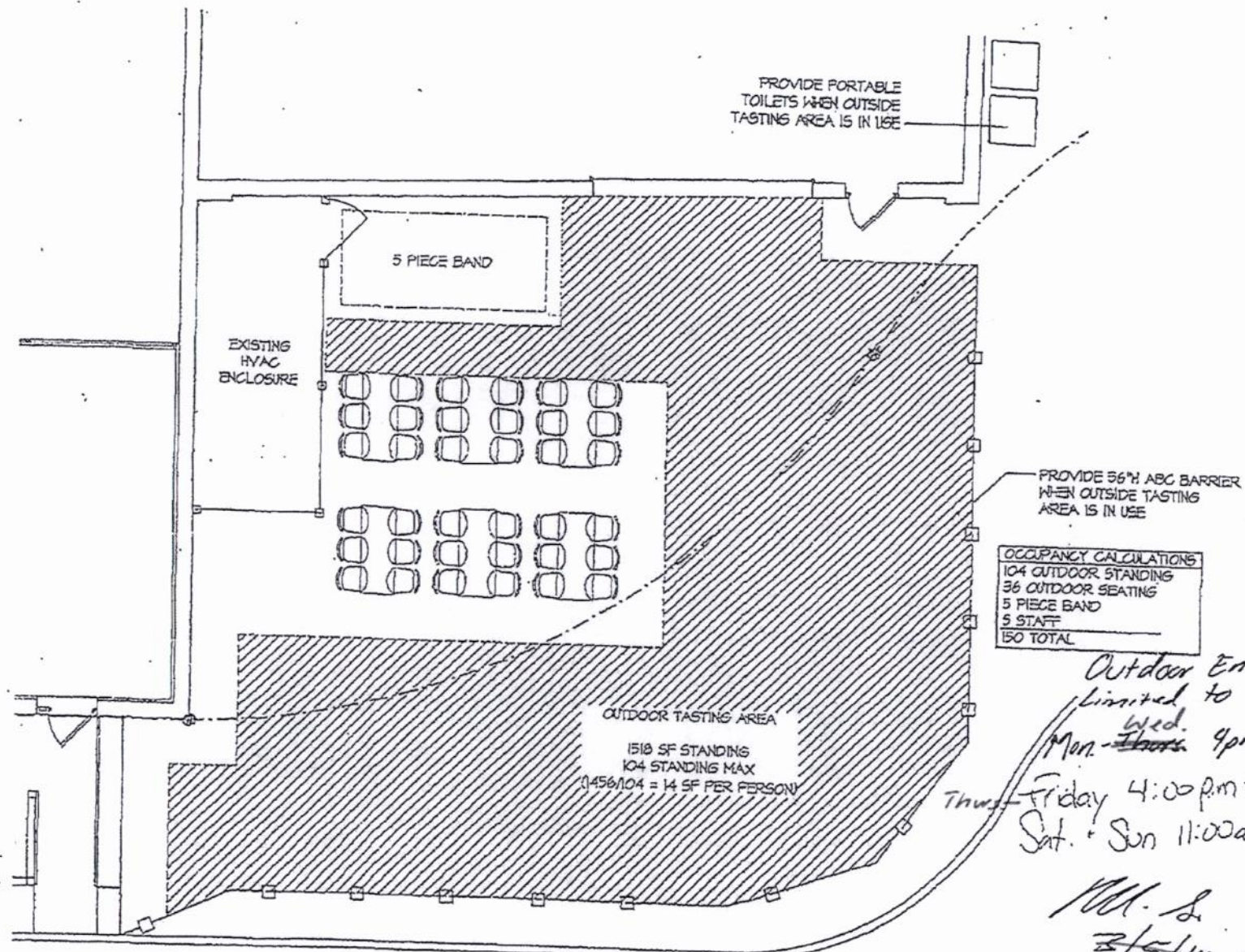
4a. If yes, square footage of establishment _____
square footage of dance floor _____

DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT

810 Union Street, Room 508

Norfolk, Virginia 23510

Telephone (757) 664-4752 Fax (757) 441-1669



OCCUPANCY CALCULATIONS	
104	OUTDOOR STANDING
36	OUTDOOR SEATING
5	PIECE BAND
5	STAFF
150	TOTAL

OUTDOOR TASTING AREA
 1510 SF STANDING
 104 STANDING MAX
 $(1510/104 = 14 \text{ SF PER PERSON})$

Outdoor Entertainment

Limited to

Wed.

Mon. - Thurs 9pm - 8pm

Friday 4:00pm to 11:00pm

Sat. + Sun 11:00am to 11:00p

M.M. &

3/5/14 M.A.

8-5-15

#9

SMARTMOUTH BREWING COMPANY; 1309 RALEIGH AVENUE, NORFOLK, VA 23507
 OUTDOOR TASTING AREA USED 5 TIMES MONTHLY IN CONJUNCTION WITH LAYOUTS 1-19
 1/8" = 1'-0"

**Exhibit A – Floor Plan(s) Worksheet
Entertainment Establishment**

~~10~~ 10

- Complete this worksheet based for each floor plan submitted with application.
- Floor plan(s) must be prepared by a registered design professional and include:
 - Tables/seats
 - Restroom facilities
 - Bar
 - Ingress and egress
 - Standing room
 - Disc Jockey/Band/Entertainment area)
 - Outdoor seating
 - Total maximum capacity (including employees)

1. Total capacity

a. Indoor

Number of seats (not including bar seats)

Number of bar seats

Standing room

46

10

234

b. Outdoor

Number of seats

c. Number of employees

15

Total Occupancy

(Indoor/Outdoor seats, standing room and employees) = 300

2. Entertainment

List ANY type of entertainment proposed other than a 3 member live band, karaoke, comedian, or poetry reading.

band, trivia, ~~etc~~

3. Will a dance floor be provided?

☐ Yes ☒ No

3a. If yes,

Square footage of establishment _____

Square footage of dance floor _____

- If a disc jockey is proposed, a dance floor must be provided.
- If the dance floor is more than 10% of the square footage of the establishment, a Dance Hall permit is required.

DEPARTMENT OF CITY PLANNING

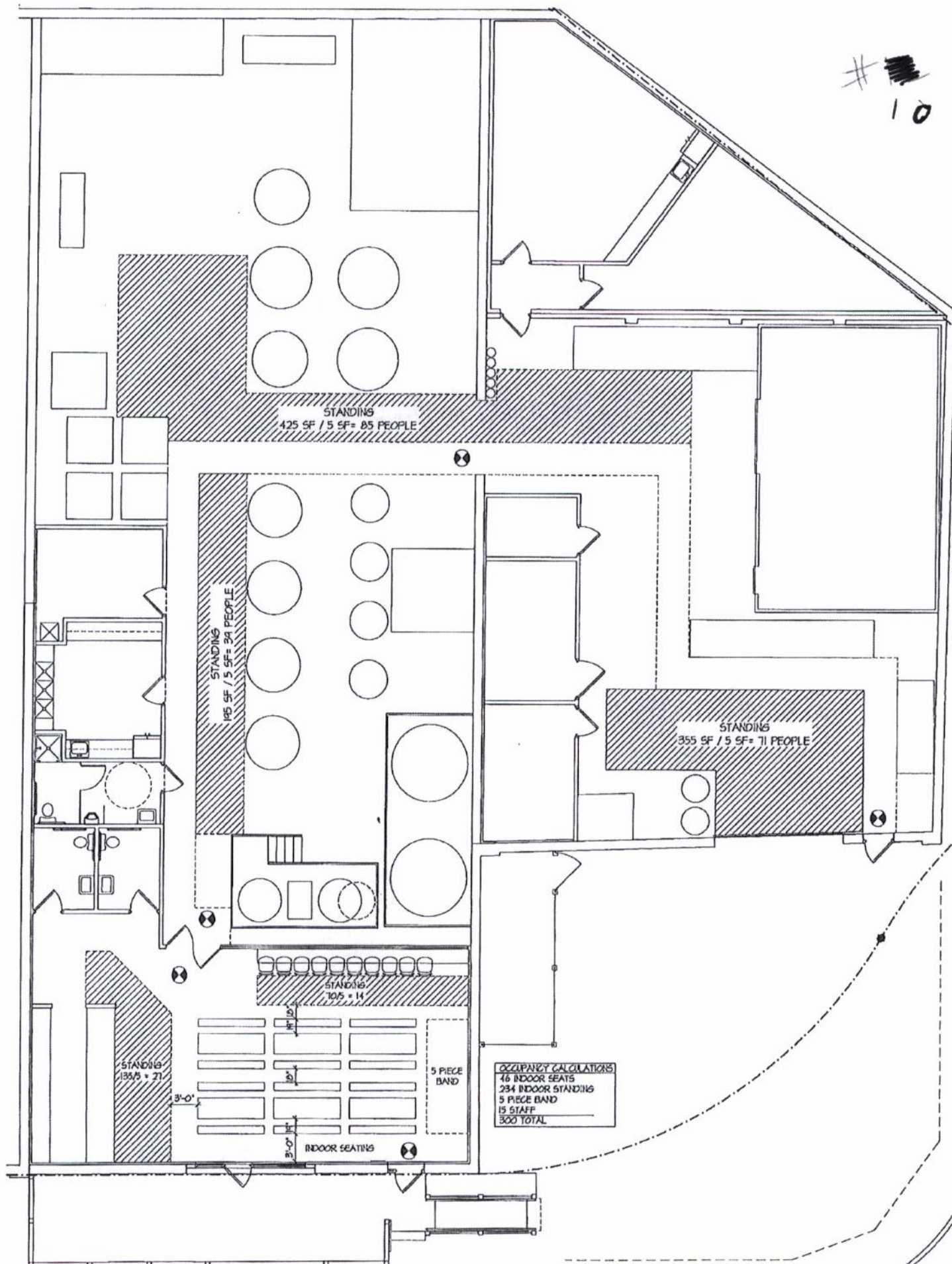
810 Union Street, Room 508

Norfolk, Virginia 23510

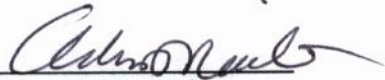
Telephone (757) 664-4752 Fax (757) 441-1569

(Revised January 2010)

10



Form and Correctness Approved: 

By 
Office of the City Attorney

Contents Approved: 

By 
DEPT.

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE GRANTING A SPECIAL EXCEPTION TO PERMIT THE OPERATION OF A MICROBREWERY NAMED "SMARTMOUTH BREWING COMPANY" ON PROPERTY LOCATED AT 1309 RALEIGH AVENUE.

- - -

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That a Special Exception is hereby granted to Smartmouth Brewing Co., LLC authorizing the operation of a microbrewery named as "Smartmouth Brewing Company" on property located at 1309 Raleigh Avenue. The property which is the subject of this Special Exception is more fully described as follows:

Property fronting 228 feet, more or less, along the southern line of Raleigh Avenue beginning 93 feet, more or less, from the western line of Orapax Street and extending westwardly; premises numbered 1309 Raleigh Avenue.

Section 2:- That the Special Exception granted hereby shall be subject to the following conditions:

- (a) The hours during which the establishment is open to the public shall be limited to 7:00 a.m. until 2:00 a.m. the following morning, seven days per week.
- (b) The hours of operation for the sale of alcoholic beverages for on-premises consumption shall be limited to 9:00 a.m. until 2:00 a.m. the following morning, seven days per week.
- (c) The hours of operation for the sale of alcoholic beverages for off-premises consumption shall be limited to 9:00 a.m. until 12:00 midnight, seven days per week.
- (d) The seating for the establishment shall not exceed 74 seats indoors, 40 seats outdoors, and the total occupant capacity, including employees, shall not

exceed 300 people.

- (e) There shall be no entertainment, no dancing, and no dance floor provided, except as may be authorized by a special exception permitting the operation of an entertainment establishment granted to the same operator as holds this special exception.
- (f) This special exception shall terminate in the event of a change in ownership of the facility and may be revoked in the event of a change in the operation of the facility as described in the Description of Operations set forth in "Exhibit A," attached hereto, provided that no termination in the event of a change in ownership of the facility shall be effective until 120 days after the change or until a new special exception is granted showing the new owner, whichever is earlier.
- (g) The business authorized by this Special Exception shall be conducted in accordance with the Description of Operations set forth in "Exhibit A," attached hereto. The representations made in "Exhibit A" shall be binding upon all owners, operators and managers who operate and/or manage the premises covered by this Special Exception. Should any owner, operator or manager desire to operate the business in a manner different than as represented in "Exhibit A," a new Special Exception must be obtained prior to any such change. Where any limitation or representation contained in "Exhibit A" is inconsistent with any condition of this ordinance, the conditions of this ordinance shall govern.
- (h) No alcoholic beverages other than beer, ale, or other fermented malt beverages shall be sold.
- (i) The only alcoholic beverages that may be sold for off-premises consumption are those produced on site.
- (j) No alcoholic beverage having more than 21% alcohol by volume shall be sold for off-premises consumption.
- (k) No beer shall be sold in any package containing

fewer than four (4) bottles or cans with the exception of fillable or refillable containers of at least 32 oz. capacity, with the exception of those bottled craft beers which are exclusively produced in bottles greater than 12 ounces but less than 32 ounces in size.

- (l) The facility shall maintain a current, active business license at all times while in operation.
- (m) The establishment shall remain current on all food and beverages taxes and other local taxes which may become due while it is in operation.
- (n) During all hours of operation, the establishment operator shall be responsible for maintaining those portions of public rights-of-way improved by sidewalk and portions of any parking lot adjacent to the premises regulated by the Special Exception so as to keep such areas free of litter, refuse, solid waste, and any bodily discharge.
- (o) The violation of any requirement, limitation, or restriction imposed by the Virginia ABC Commission shall be deemed a violation of this Special Exception. This Special Exception may be revoked for any violation of a general or specific condition, including a condition incorporated by reference and including a condition arising from requirements, limitations, or restrictions imposed by the ABC Commission or by Virginia law.
- (p) A copy of this Special Exception ordinance and "Exhibit A" shall be available on site at all times for inspection, and a notice indicating that this Special Exception ordinance and all amendments are kept on the premises and are available for review by any member of the general public shall be posted in a visible location. The notice shall also contain information on where and how to report violations of conditions and shall include the address of the zoning administrator.

Section 3:- That the City Council hereby determines that the Special Exception granted herein complies with each of the requirements of § 25-7 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended), namely that:

- (a) The proposed use and development will be in harmony with the objectives and policies of the adopted General Plan of Norfolk and with the general and specific purposes for which this ordinance was enacted and for which the regulations of the district in question were established;
- (b) The proposed use and development will not substantially diminish or impair the value of the property within the neighborhood in which it is located;
- (c) The proposed use and development will not have an adverse effect upon the character of the area or the public health, safety and general welfare. Conditions may be applied to the proposed use and development, as specified in section 25-8 below, to mitigate potential adverse impacts;
- (d) The proposed use and development will be constructed, arranged and operated so as not to interfere with the use and development of neighboring property in accordance with the applicable district regulations;
- (e) The proposed use and development will be served adequately by essential public facilities and services such as streets, public utilities, drainage structures, police and fire protection, refuse disposal, parks, libraries, and schools;
- (f) The proposed use and development will not cause undue traffic congestion nor draw significant amounts of traffic through residential streets;
- (g) The proposed use and development will not result in the destruction, loss or damage of natural, scenic or historic features of significant importance;
- (h) The proposed use and development will not cause substantial air, water, soil or noise pollution or other types of pollution which cannot be mitigated;
- (i) The proposed use and development will not cause a negative cumulative effect, when its effect is considered in conjunction with the cumulative

effect of various special exception uses of all types on the immediate neighborhood and the effect of the proposed type of special exception use on the city as a whole;

- (j) The proposed use and development complies with all additional standards imposed on it by the particular provisions of the ordinance authorizing such use; and
- (k) No application for a special exception shall be recommended or granted until any and all delinquent real estate taxes owed to the City of Norfolk on the subject property have been paid.

Section 4:- That the Special Exception granted hereby amends a previously granted special exception permitting an establishment for the sale of alcoholic beverages for off-premises consumption on this property, adopted on May 14, 2013 (Ordinance No. 45,099) and all provisions and conditions previously approved are entirely superseded by the terms of this Special Exception.

Section 5:- That this ordinance shall be in effect from the date of its adoption.

ATTACHMENT:

Exhibit A (3 pages)



EXHIBIT "A"
Description of Operations
Entertainment Establishment
(Please Print)

7/27/15

Date 7/27/15

Trade name of business Smartmouth Brewing Co.

Address of business 1309 Raleigh Ave. #300 Norfolk 23507

Name(s) of business owner(s)* see attached

Name(s) of property owner(s)* Raleigh Commons LLC, James Bayler

Name(s) of business manager(s)/operator(s) see attached

Daytime telephone number (757) 624-3939 or cell 757 478 3836

*If business or property owner is a partnership, all partners must be listed.
*If business or property owner is an LLC or Corporation, all principals must be listed.

1. Proposed Hours of Operation:

Facility	On-premises	Indoor
	Alcoholic Beverage Sales and Entertainment	
Weekday From <u>7am</u> To <u>2am</u>	Weekday From <u>9am</u> To <u>2am</u>	
Friday From <u>7am</u> To <u>2am</u>	Friday From <u>9am</u> To <u>2am</u>	
Saturday From <u>7am</u> To <u>2am</u>	Saturday From <u>9am</u> To <u>2am</u>	
Sunday From <u>7am</u> To <u>2am</u>	Sunday From <u>9am</u> To <u>2am</u>	

2. Type of ABC license applied for (check all applicable boxes):
☒ On-Premises ☐ Off-Premises (second application required)

3. Type of alcoholic beverage applied for:
☒ Beer ☐ Wine ☐ Mixed Beverage

only

DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT
810 Union Street, Room 508
Norfolk, Virginia 23510
Telephone (757) 664-4752 Fax (757) 441-1569
(Revised July 2013)

Exhibit A – Page 2
Entertainment Establishment

4. Will video games, pool tables, game boards or other types of games be provided?
Yes (If more than 4, additional application required) ☒ No

4a. If yes, please describe type and number of each game to be provided:

5. Will patrons ever be charged to enter the establishment?
Yes ☒ No

5a. If yes, why:

- 5b. Which days of the week will there be a cover charge (circle all applicable days):

Monday Tuesday Wednesday Thursday Friday
Saturday Sunday

6. Will the facility or a portion of the facility be available for private parties?
☒ Yes No

6a. If yes, explain:

non profits, govt agencies, private indiv or
corp events - non publicized

7. Will a third party (promoter) be permitted to lease, let or use the establishment?
Yes ☒ No

7a. If yes, explain:

8. Will there ever be a minimum age limit?
Yes ☒ No

DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT

810 Union Street, Room 508

Norfolk, Virginia 23510

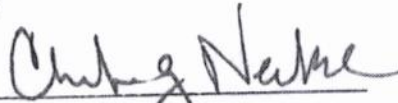
Telephone (757) 664-4752 Fax (757) 441-1569

(Revised July 2013)

Exhibit A – Page 3
Entertainment Establishment

9. Additional comments/description/operational characteristics or prior experience:

Note: If smoking is permitted, then floor plans must be submitted showing all necessary building requirements for such facility



Signature of Applicant

Location Map

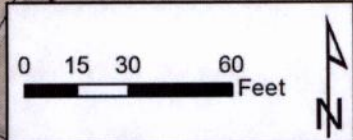


SMARTMOUTH BREWING COMPANY

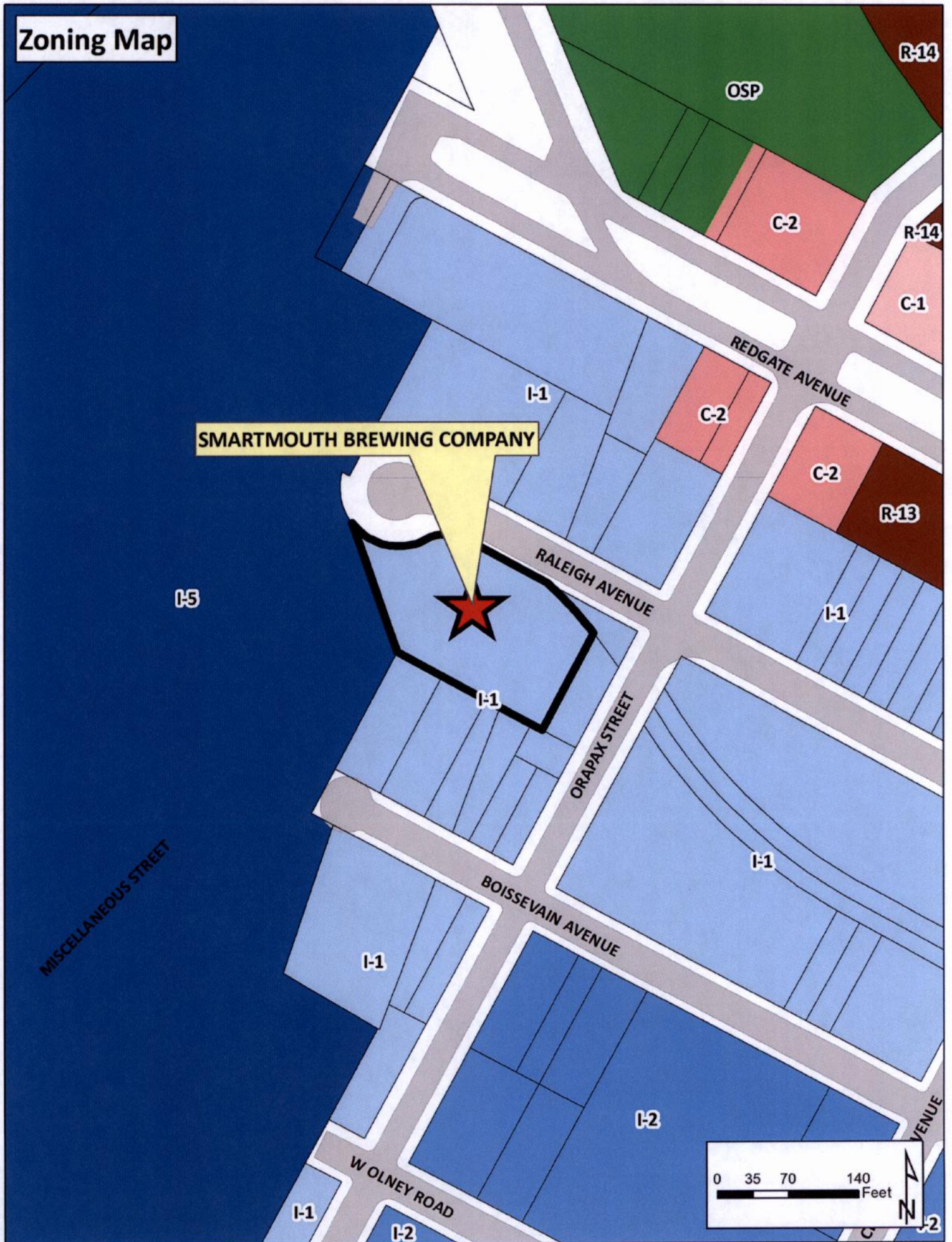
RALEIGH AVENUE

ORAPAX STREET

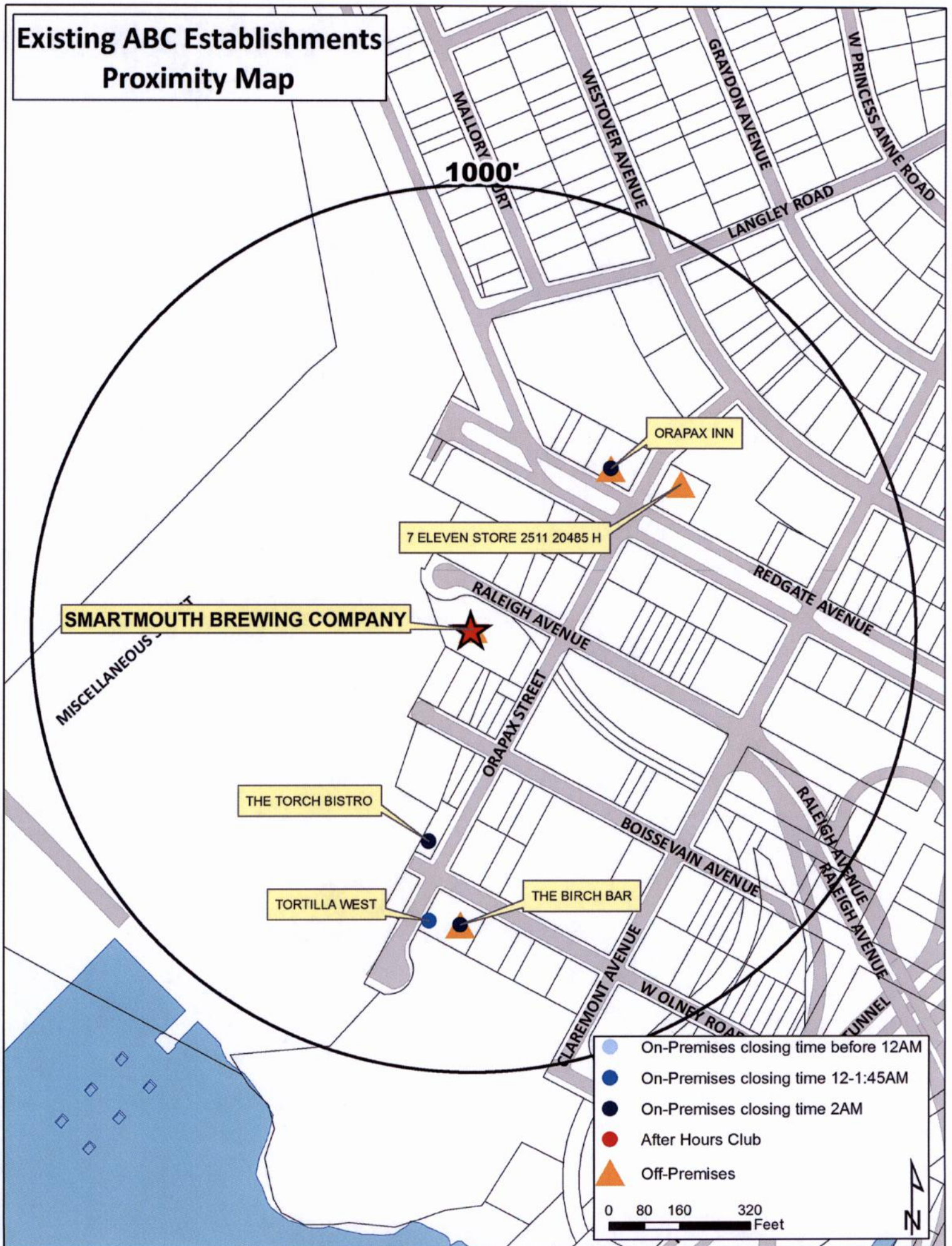
BOISSEVAIN AVENUE



Zoning Map



Existing ABC Establishments Proximity Map





APPLICATION
ADULT USE SPECIAL EXCEPTION
ENTERTAINMENT ESTABLISHMENT
(Please Print)

7/27/15
Date 7/27/15

DESCRIPTION OF PROPERTY

Address 1309 Raleigh Ave. #300 Norfolk VA 23507

Existing Use of Property Smartmouth Brewing Co.

Proposed Use Smartmouth Brewing Co.

Current Building Square Footage 9.000

Proposed Building Square Footage 9.000

Trade Name of Business (If applicable) Smartmouth Brewing Co.

APPLICANT/ PROPERTY OWNER

1. Name of applicant (Last) Neukirk (First) Christine (MI) G.

Mailing address of applicant (Street/P.O. Box) 1309 Raleigh Ave #300

(City) Norfolk (State) VA (Zip Code) 23507

Daytime telephone number of applicant (757) 478-3836 Fax number () _____

E-mail address of applicant shechris@smartmouthbrewing.com

2. Name of property owner (Last) Baylor (First) James (MI) E

Mailing address of property owner (Street/P.O. box) 248 Buk St. #200

(City) Norfolk (State) VA (Zip Code) 23507

Daytime telephone number of owner (757) 622-7555 Fax number (757) 625-6831

DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT

810 Union Street, Room 508

Norfolk, Virginia 23510

Telephone (757) 664-4752 Fax (757) 441-1569

(Revised July 2013)

Smartmonth
Special Exception

Application
Entertainment Establishment
Page 2

CONTACT INFORMATION

Civic League contact Eric Lowe, President
Date(s) contacted January 10, 2014
Ward/Super Ward information Ward 2, Superward 7

REQUIRED ATTACHMENTS

- Required application fee, **\$355.00** (if check, make payable to Norfolk City Treasurer).
 - Application fee includes a non-refundable \$5 technology surcharge.
- Two 8½x14 (maximum size) copies of a survey or site plan (required for new construction or site improvements) drawn to scale showing:
 - Existing and proposed building structures
 - Driveways
 - Parking
 - Landscaping
 - Property lines (see attached example)
- Two 8½ inch x 14 inch (maximum size) copies of a floor plan prepared by a registered design professional drawn to scale showing restroom facilities, seats/tables, bar, dance floor with dimensions, band area, disc jockey area, standing room and ingress and egress (see attached example).
- Completed Exhibit A, Description of Operations (attached).

CERTIFICATION

I hereby submit this complete application and certify the information contained herein is true and accurate to the best of my knowledge:

Print name: JIM BAYLOR Sign: [Signature] 7/27/2015
(Property Owner or Authorized Agent Signature) (Date)

Print name: CHRISTINE G. NEIERK Sign: [Signature] 7/27/15
(Applicant or Authorized Agent Signature) (Date)



**APPLICATION
SPECIAL EXCEPTION**

Special Exception for: Smartmouth Brewing Co.

Date of application: 7/10/15

DESCRIPTION OF PROPERTY

Property location: (Street Number) 1309 (Street Name) Raleigh Ave

Existing Use of Property Tasting Room for Brewery

Current Building Square Footage Tasting Room = 1200

Proposed Use Tasting Room for Brewery

Proposed Square Footage 1200

Proposed Hours of Operation:

Weekday From 9am To 11pm

Friday From 9am To 11:59pm

Saturday From 9am To 11:59pm

Sunday From 9am To 11:59pm

Trade Name of Business (If applicable) Smartmouth Brewing Co.

DEPARTMENT OF CITY PLANNING

810 Union Street, Room 508
Norfolk, Virginia 23510

Telephone (757) 664-4752 Fax (757) 441-1569
(Revised January, 2015)

APPLICANT

(If applicant is a LLC or a Corp./Inc., include name of official representative and/or all partners)

1. Name of applicant: (Last) Christine (First) Neikirk (MI) G

Mailing address of applicant (Street/P.O. Box): 1309 Raleigh Ave #300

(City) Norfolk (State) VA (Zip Code) 23507

Daytime telephone number of applicant () 757-478-3836 Fax () _____

E-mail address of applicant: shechris@smartmouthbrewing.com

AUTHORIZED AGENT (if applicable)

(If agent is a LLC or a Corp./Inc., include name of official representative and/or all partners)

2. Name of applicant: (Last) _____ (First) _____ (MI) _____

Mailing address of applicant (Street/P.O. Box): _____

(City) _____ (State) _____ (Zip Code) _____

Daytime telephone number of applicant () _____ Fax () _____

E-mail address of applicant: _____

PROPERTY OWNER

(If property owner is a LLC or a Corp./Inc., include name of official representative and/or all partners)

3. Name of property owner: (Last) Baylor (First) James (MI) _____

Mailing address of property owner (Street/P.O. box): _____

(City) Norfolk (State) VA (Zip Code) 23510

Daytime telephone number of owner () _____ email: _____

DEPARTMENT OF CITY PLANNING

810 Union Street, Room 508
Norfolk, Virginia 23510

Telephone (757) 664-4752 Fax (757) 441-1569

(Revised January, 2015)

CIVIC LEAGUE INFORMATION

Civic League contact: Eric Lowe

Date(s) contacted: _____

Ward/Super Ward information: _____

CERTIFICATION:

I hereby submit this complete application and certify the information contained herein is true and accurate to the best of my knowledge:

Print name: James Baylor Sign: on file / ____ / ____
(Property Owner or Authorized Agent of Signature) (Date)

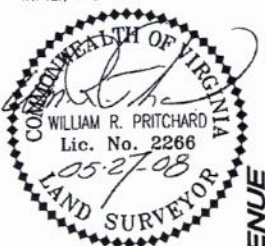
Print name: Christine Neikirk Sign: on file / ____ / ____
(Applicant) (Date)

ONLY NEEDED IF APPLICABLE:

Print name: _____ Sign: _____ / ____ / ____
(Authorized Agent Signature) (Date)

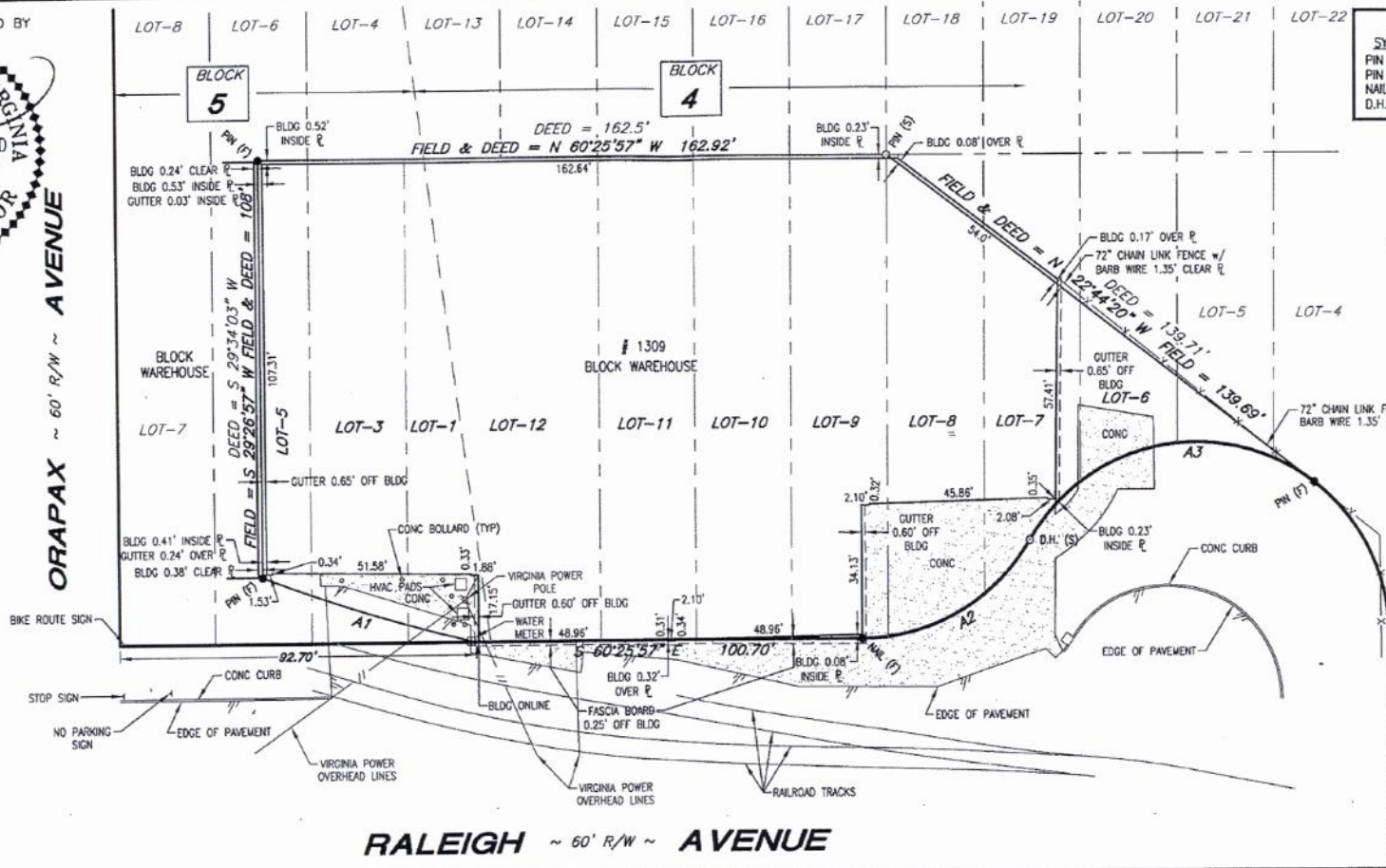
THIS IS TO CERTIFY THAT ON MARCH 27, 2008, WE SURVEYED THE PROPERTY SHOWN ON THIS PLAT, AND THAT THE TITLE LINES AND THE WALLS OF THE BUILDINGS ARE AS SHOWN ON THIS PLAT. THE BUILDINGS STAND WITHIN THE TITLE LINES AND THERE ARE NO ENCROACHMENTS OF OTHER BUILDINGS ON THE PROPERTY, EXCEPT AS SHOWN.

W.P.L., INC. SIGNED BY



ORAPAX ~ 60' R/W ~ AVENUE

ARC	LENGTH	RADIUS	CHORD LENGTH	CHORD BEARING
A1 FIELD	57.96'	409.36'	57.97'	S 47°23'40" E
A1 DEED	N/A	390.3'	57.73'	S 47°18'30" E
A2 FIELD	52.36'	50'	50.00'	N 89°34'10" E
A2 DEED	N/A	50'	50.00'	N 89°34'10" E
A3 FIELD	75.28'	50'	75.29'	S 71°35'21" E
A3 DEED	N/A	50'	75.29'	S 71°35'01" E



SURVEY SYMBOL KEY	
SYMBOL	DESCRIPTION
PIN (F) ●	PIN FOUND
PIN (S) ○	PIN SET
NAIL (F) ●	NAIL FOUND
D.H. (S) ○	DRILL HOLE SET

RALEIGH ~ 60' R/W ~ AVENUE



Landscape Architecture
Land Surveying
Civil Engineering
wpl@aol.com
240 WESTING TRAIL, STE 8 VIRGINIA BEACH, VA 23452
757.431.1041

PHYSICAL SURVEY
OF
PART OF LOTS 1, 3, 5, BLOCK 5, CHELSEA
PLAT RECORDED IN M.B. 1, P. 74, IN THE CLERK'S
OFFICE OF THE CIRCUIT COURT, NORFOLK, VA
PART OF LOTS 4, 5, 6, 7, 8, 9, 12, & ALL OF LOTS
10 & 11, BLOCK 4, GHENT ANNEX
PLAT RECORDED IN M.B. 1, P. 43, IN THE CLERK'S
OFFICE OF THE CIRCUIT COURT, NORFOLK, VA
REFERENCED DEED RECORDED IN DOC. NO. 040006737, IN
THE CLERK'S OFFICE OF THE CIRCUIT COURT, NORFOLK, VA
NORFOLK, VIRGINIA

For
JIM BAYLOR

FLOOD INFORMATION: THE PROPERTY SHOWN HEREON APPEARS TO FALL WITHIN FLOOD ZONE(S) "C" (AREA OF MINIMAL FLOODING) AS SHOWN ON F.E.M.A.'S FLOOD INSURANCE RATE MAP (F.I.R.M.) FOR THE CITY OF NORFOLK, VIRGINIA, COMMUNITY PANEL NO. 510104 0022D DATED APRIL 17, 1984.

W.P.L., INC. IS NOT A PARTY IN DETERMINING THE REQUIREMENTS FOR FLOOD INSURANCE ON THE PROPERTY SHOWN HEREON. THIS SURVEY DOES NOT IMPLY THAT THIS PROPERTY WILL OR WILL NOT BE SUBJECT TO FLOODING. FOR FURTHER INFORMATION, CONTACT THE LOCAL COMMUNITY FLOOD OFFICIAL. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT AND MAY NOT SHOW ANY/ALL EASEMENTS OR RESTRICTIONS THAT MAY AFFECT SAID PROPERTY AS SHOWN. THIS PLAT DOES NOT INTEND TO REPRESENT A SUBDIVISION OF LAND.

CAD/chk: WJW/wrp	CITY OF NORFOLK, VA.	F.B. 939/66 & 911/44	PLAT: C-0122	MAY 23, 2008	JN: 208-0088
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